

***Navigating the Next  
Stage: Key  
Considerations for  
Succession Planning  
and Retirement***

2025 REBA SPRING  
CONFERENCE  
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WHAT IS  
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# WE HELP LAWYERS, LAW STUDENTS, AND OTHER LEGAL PROFESSIONALS.

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## OUR MISSION

is to promote well-being and resilience in the legal community, improve lives, nurture competence, and elevate the standing of the legal profession.



# Roadblocks to retirement

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- Emotional challenges
- Identity crisis
- Cognitive Changes





# After the honeymoon: emotional challenges to retirement

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- Initial phase of retirement (or even thinking about retirement) can be exciting
- Research shows that 1 in 3 retirees experience some level of depression
- Depression can manifest in feelings of grief and loss, increased alcohol consumption, overeating, etc.
- Lack of regular social interaction can lead to social isolation



# Risk factors for emotional and substance use challenges in retirement

Involuntary  
retirement

Health-related  
retirement

Limited social  
network  
outside of work

High  
satisfaction  
with work

Stress

Age at  
retirement

Financial stress

Personal life

A hand holding a white mask against a light background. The mask is a simple, featureless white shell. The hand is dark-skinned and is holding the mask by its bottom edge. The background is a soft, out-of-focus light grey or white. The entire image is framed within a circular shape on the left side of the slide.

# Identity change

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- For many lawyers, the sense of self has been entirely wrapped up in their identity as a lawyer
- For many lawyers, work has been the primary way they have organized their lives (schedule, planning, sleep at night)
- Unresolved life issues (missed opportunities, relationship ruptures) may take over and become preoccupying.
- Loss of identity can create a void or lack of structure that can lead to anxiety, potential health issues, and even cognitive decline.

# Lawyers and Cognitive Decline

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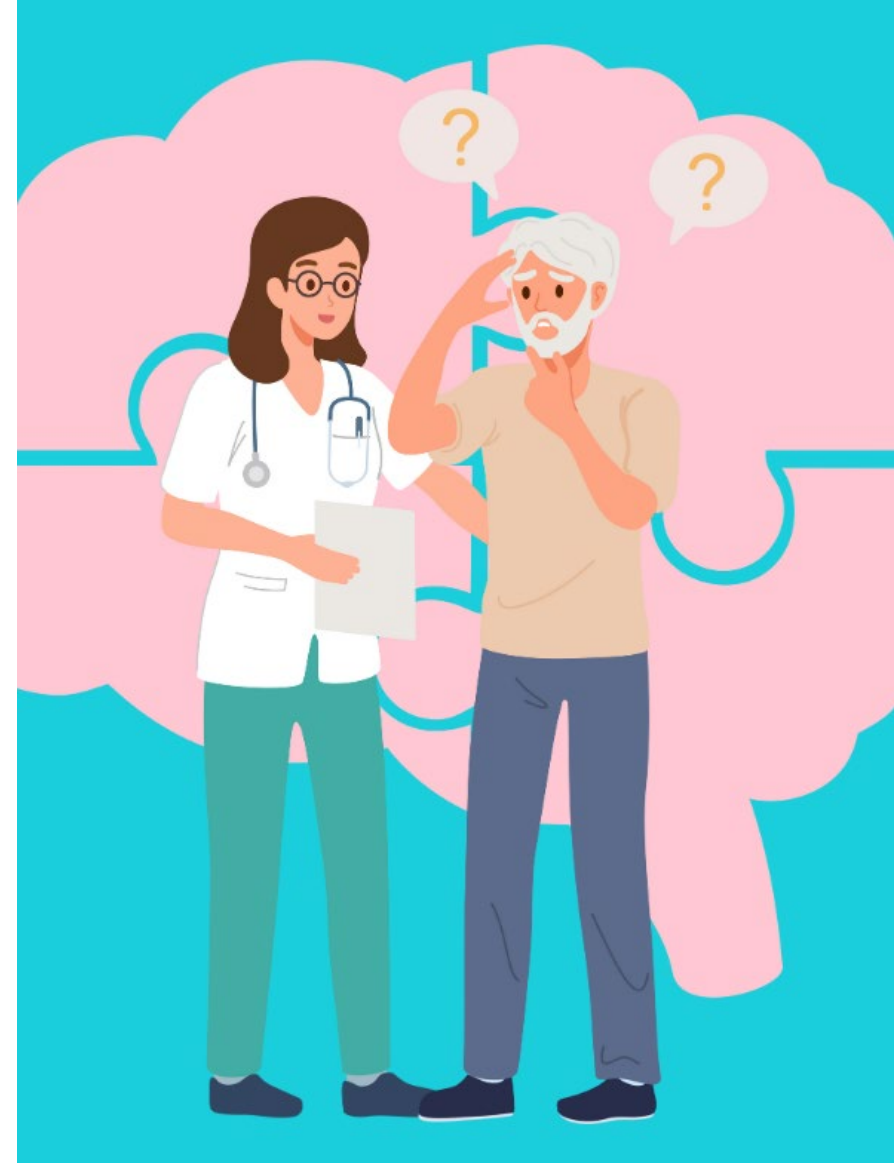
- Lawyers must rely on their memory, expressive language skills, and ability to concentrate for long periods of time.
- Even subtle changes in these capacities can impact a lawyer's ability to do their job and could lead to significant problems in the workplace and when planning for retirement
- Lawyers are less likely to seek help for mental health and cognitive problems as compared to other professions due to fear, stigma, lack of resources, and shame.
- Lawyers struggle with maintaining healthy lifestyles and may place themselves at a higher risk for cognitive decline due to excessive drinking, smoking, lack of exercise and unhealthy diet leading to hypertension, diabetes, and other health-related issues.





# What is cognitive decline?

Concern or difficulty with a person's thinking, memory, concentration, and other brain functions beyond what is typically expected due to aging.





# What is Mild Cognitive Impairment?

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- Mild cognitive impairment (MCI) is an early stage of memory loss or other cognitive ability loss (such as language or visual/spatial perception) in individuals who maintain the ability to independently perform most activities of daily living.
- Mild cognitive impairment causes cognitive changes that are serious enough to be noticed by the person affected and by family members and friends but do not affect the individual's ability to carry out everyday activities.
- MCI can develop for multiple reasons, and individuals living with MCI may go on to develop dementia; others will not.
- In some individuals, MCI reverts to normal cognition or remains stable. In other cases, such as when a medication causes cognitive impairment, MCI is mistakenly diagnosed.
- It is important that people experiencing cognitive changes seek help as soon as possible for diagnosis and possible treatment.





# What causes cognitive decline ?

Cognitive decline in lawyers, as in any profession, can be influenced by various factors. Some of the top causes include:

1. **Aging:** Like the general population, lawyers experience age-related changes in cognitive function.
2. **Chronic Health Conditions:** diabetes, hypertension, and cardiovascular disease, can increase the risk of cognitive decline.
3. **Lifestyle:** Stress, burnout, sleep deprivation, poor diet, lack of exercise, sedentary job can increase risk for cognitive changes.

# Spotting signs of cognitive decline in lawyers

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- Increasing memory loss, including forgetting appointments, social engagements
- Losing one's train of thought in the middle of a conversation; or dodging questions about remembering specific dates or events and instead telling tangentially related stories.
- Failure to use technology or forgetting how to use technology after being taught
- Forgetting deadlines, hearings or other important docket dates
- Missing meetings or calls despite them appearing on the calendar
- A decline in the lawyer's writing and oral argument abilities





# Spotting signs of cognitive decline in lawyers

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- Arriving to or leaving work at odd hours
- Forgetting colleagues' and clients' names
- Appearing disheveled
- Unexplained irritability and changes to mood or demeanor
- Falling or injuring themselves at work
- Significant and rapid weight loss or gain
- Increasingly becoming more impulsive, showing poor judgement, and having trouble moving around familiar places.
- Increasingly appearing overwhelmed by making decisions, making plans, or understanding instructions



## How can I help a colleague who is struggling with cognitive impairment?

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- Noticing cognitive decline in our colleagues is one thing, but doing something about it is another. It is a tricky, sensitive and difficult subject to broach.
- It is often easier to get involved in cases of substance abuse or mental health problems because that can mean saving someone's career.
- In the case of progressing dementia, intervening often means ending one's career. Nonetheless, it is crucial to have the uncomfortable conversations and make the hard decisions.
- Approaching a colleague from a place of concern and not of confrontation is a better approach. Also, leaving out your suspicion of certain specific diagnoses, such as "dementia," is recommended
- It is far better to approach someone before it becomes a malpractice or professional responsibility issue for them.

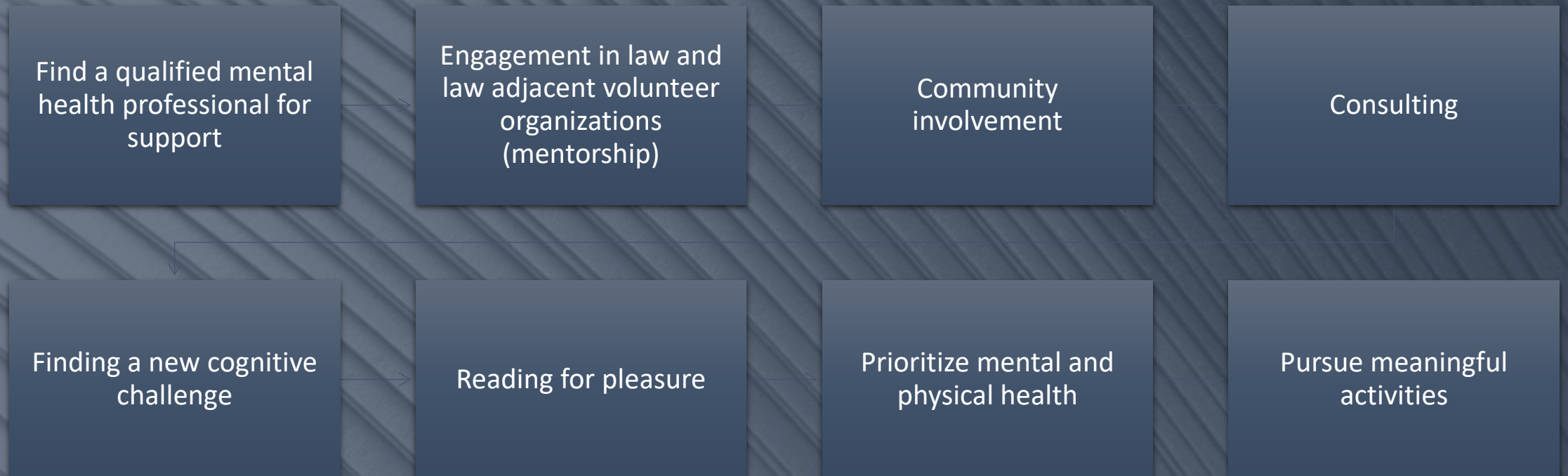
# How can I help a colleague who is struggling with cognitive impairment?

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- Encourage the person to seek medical help – starting with the PCP to see if they are having any health issues that may be impacting their memory and potentially reversing or decreasing cognitive impairment.
- With a medical diagnosis, the person will be better able to organize financial matters, establish a durable power of attorney and advance health care directives, deal with other legal issues, create a support network, and even consider joining a clinical trial or another research study.
- For a legal professional with signs of cognitive impairment, early diagnosis affords the attorney an opportunity to participate in decisions, such as appointing a successor attorney or closing the law practice, rather than waiting until such arrangements become the responsibility of colleagues or family members.
- A lawyer with more severe forms of dementia may want to consider limiting or ending their law practice while they are still capable of doing so. Support your colleague by helping them find professional help to close their practice to ensure they are following the state ethics rules.



# Tips to navigate emotional and cognitive changes in retirement





# Law Practice Management

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- Practical steps for winding down or passing on a practice
- Ethical considerations
- Professional liability coverage
- Handling client files & open matters



# Practical Steps for Winding Down or Passing on a Practice

Plan Early

Document  
Everything

Designate a  
Trusted  
Attorney

# Plan Early (for Both Scenarios)



## LCL Templates & Checklists

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### CHECKLIST

For closing your  
office

### CHECKLIST

*For assisting  
attorneys helping an  
affected attorney*

### LETTERS

Notifying clients

### FORMS

For clients

### CHART

For tracking delivery  
of client files

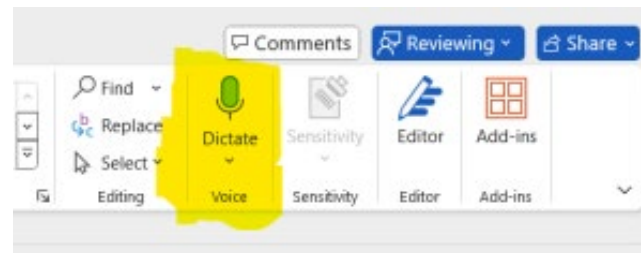
# Document Everything (for Both Scenarios)

- Check out this ABA book for free at our LCL E-Library through the [MA Trial Court Digital Library](#)!

- Use Lawyerist's tips on developing a [Systems, Procedures, and Operations Manual](#)

- Do a simple outline

- Use dictation feature in Word





# Designate a Trusted Attorney

- Ensure they have the authority to access client files and notify clients.
- Provide written instructions on client communications and case transitions.



# Ethical Considerations in Succession Planning



## *Diligence*

[Mass. R. Prof. C. 1.3, Comment 5](#)

Sole practitioners should prepare a plan that designates another competent lawyer to review client files, notify clients of the lawyer's death or disability, and assess the need for immediate protective action.



## *Competency*

[Mass. R. Prof. C. 1.1, 1.16\(a\)\(2\)](#)

A lawyer must not accept or continue representation if their physical or mental condition materially impairs their ability to represent the client.



## *Confidentiality*

[Mass. R. Prof. C. 1.6](#)

Due to a lawyer's confidentiality obligations, only an authorized person may go through their client files, making it essential to designate an Assisting Attorney in a Succession Plan.



## *IOLTA Compliance*

[Mass. R. Prof. C. 1.15](#)

A lawyer must ensure continuity in financial and recordkeeping obligations, including avoiding an insufficient funds notice on a trust account

# Sales of Law Practices

- Governed by Mass. R. of Prof. C. 1.17
- Watch Jeremy Pook, Esq. from Senior Attorney Match, and Margaret Burke, from MB Law Firm Consulting, discuss succession planning and selling a law practice



Succession Planning: What to do  
With Your Law Practice?

# Professional Liability Coverage

- Notify your carrier of retirement plans and anticipated retirement date
- Explore “tail coverage”/ extended reporting period & retirement extended reporting period
- If you will be doing pro bono work, check about coverage with your carrier



## Succession Planning: Know your Registration Options

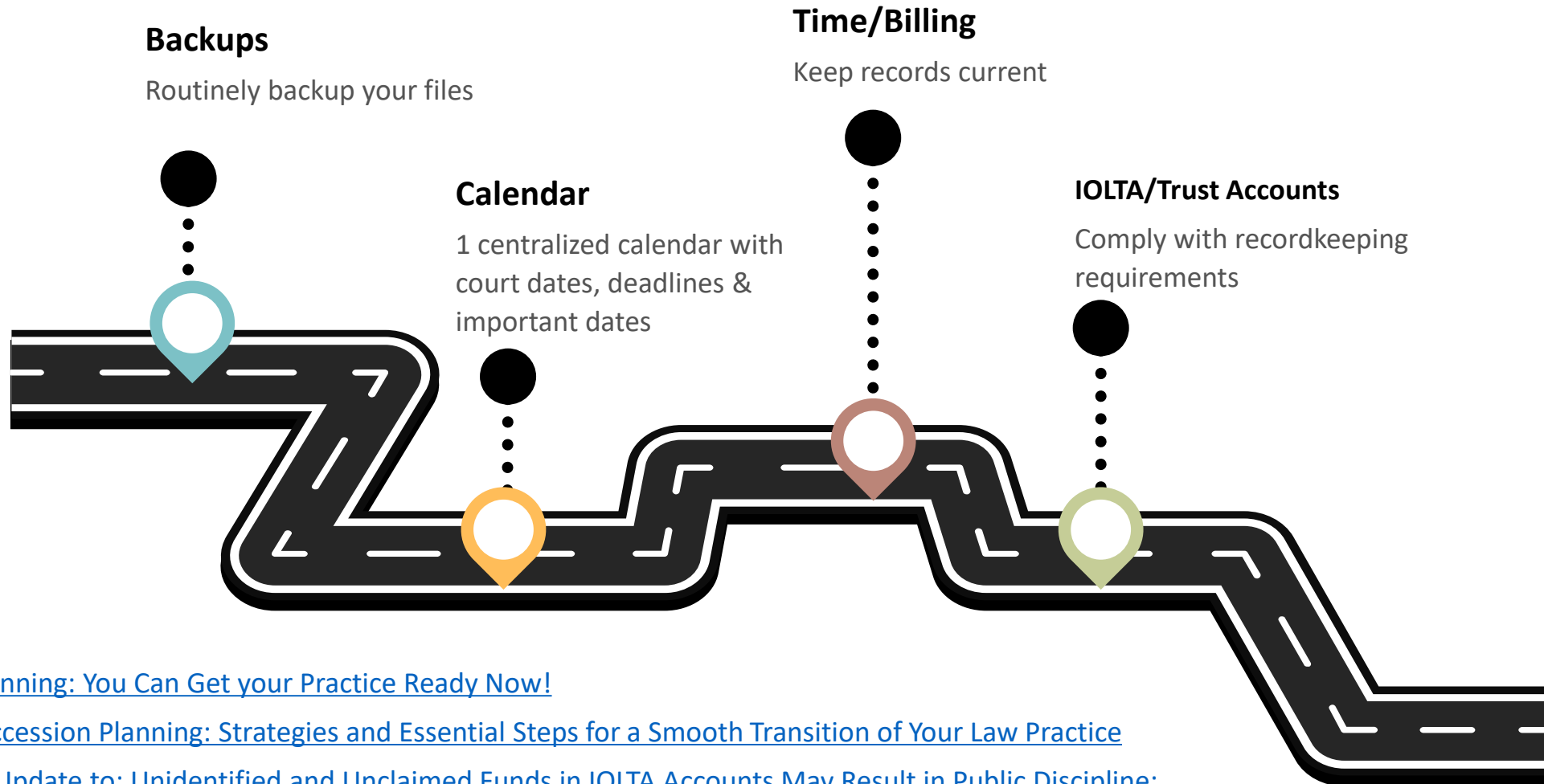
- Attorneys with an active license must notify the Board in writing within 30 days if their insurance policy lapses or terminates without immediate renewal or substitute coverage (S.J.C. Rule 4:02, § 2A(a)).
- Any other changes to coverage, not involving a lapse or termination without immediate renewal, must be reported to the BBO within 14 days (S.J.C. Rule 4:02, § 1).



# Healthy Systems for Handling Open Matters

## Get your Practice Ready Now

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### Resources:

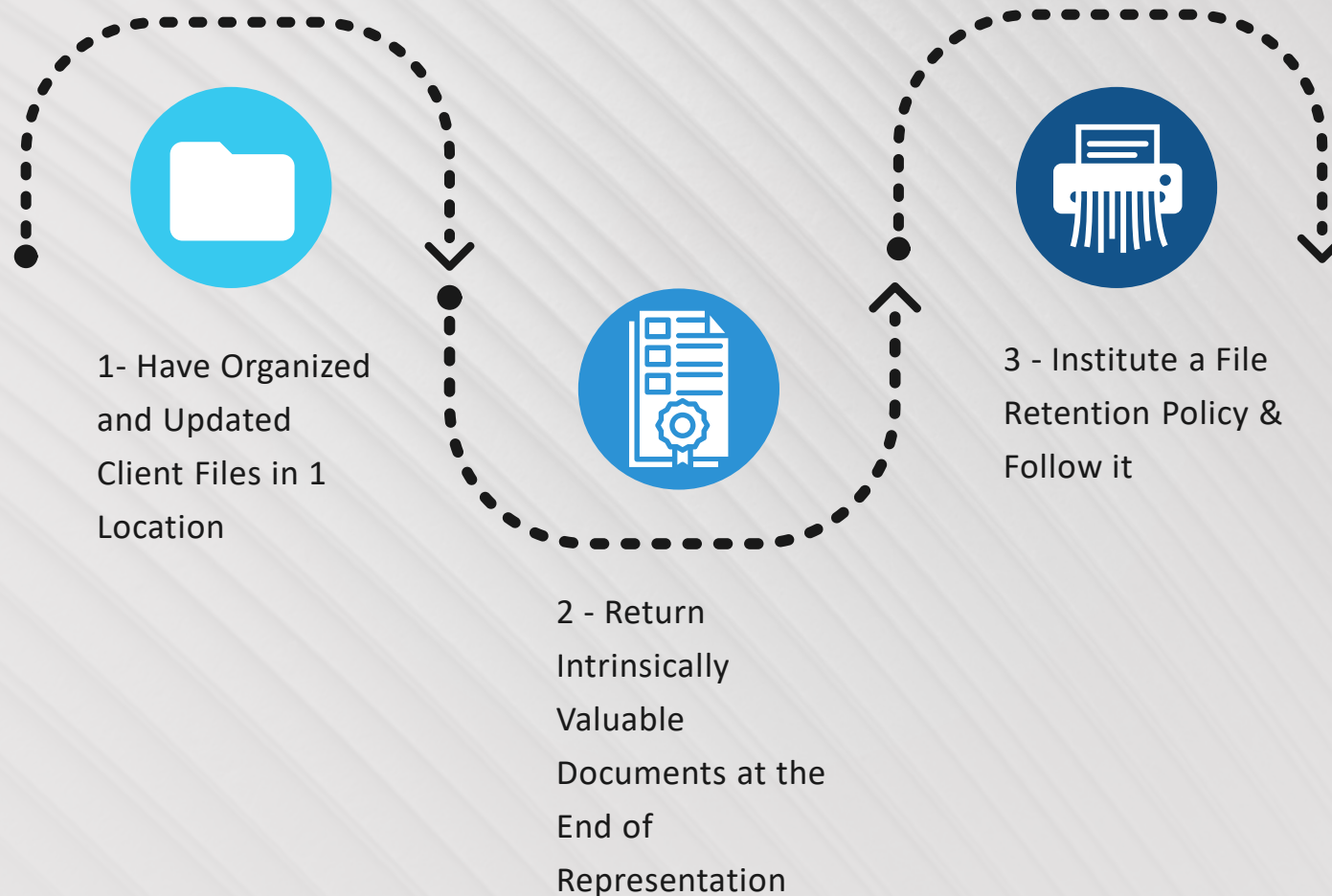
[Succession Planning: You Can Get your Practice Ready Now!](#)

[Navigating Succession Planning: Strategies and Essential Steps for a Smooth Transition of Your Law Practice](#)

[January 2024 Update to: Unidentified and Unclaimed Funds in IOLTA Accounts May Result in Public Discipline: so now is a good time for lawyers to clean up their accounts.](#)

# Top 3 Tips for Handling Client Files\*

\*From [Navigating Succession Planning: Strategies and Essential Steps for a Smooth Transition of Your Law Practice](#)



Mass. R. Prof. C. 1.15A  
OBC Articles:  
New Rule on Client Files  
will Provide Clear  
Guidance for Lawyers  
Talking Trash Recycled  
(AGAIN)

# Components of a Client File (R. 1.15A(a))

- Client-Supplied Materials
- Correspondence
- Pleadings/papers filed with or by the Court
- Investigatory or Discovery documents
- Intrinsically valuable documents of the client
- Lawyer's work product

# Ordinarily NOT part of a Client File (R. 1.15A, Comment [3])

- **Drafts & copies of the same document:** Only final version unless draft needed to complete representation.
- **Personal notes:** Excluded unless they are the only record of key events.
- **Administrative records:** Conflict checks, billing, & internal firm communications not part of client file but might be subject to discovery in a dispute concerning the representation.
- **Exception:** Documents in the file at the time of a request must be preserved & provided.

# Organized/Updated Files in 1 Location

## Good Habits to Develop

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Make sure the file is organized, complete, and updated throughout the representation; don't wait until the end of representation to do this.



5 - Don't Wait 'Til the End

Emails and text messages could be part of the client file. Everything should be in 1 location. LPMS can house these in the client e-file.



4 - One Location

Memorialize your notes promptly and keep them in the client file.



3 - Your Notes

Avoid multiple draft versions (paper & electronic). Consider document collaboration platforms like SharePoint.



2 - Drafts

Avoid keeping multiple copies of same documents (paper & electronic)



1 - Active Files



# Tips for Handling Client Files & Open Matters

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Send closing/disengagement or non-engagement letter with file retention policy



5 - End of Matter

For trust property, follow R. 1.15(c) and (f)



4 - Trust Property

Ensure that all liens and other obligations have been paid, discharges are secured & recorded



3 - End of Matter

Provide clients with copies of file documents throughout the representation



2 - Other Documents

Return originals & intrinsically valuable documents during representation or at the end.



1 - Intrinsically Valuable Documents

# Develop a File Retention Policy

1

Must spell out retention schedules under R. 1.15A or other retention schedules (e.g., CPCS cases)

2

Should cover trust property under R. 1.15  
Should spell out obligations under R. 1.15(f)  
Should include returning all trust property promptly to client

3

Should spell out file disposal procedures

4

Can be included in fee agreement or as a stand-alone policy

5

Should also be included in closing & nonengagement/disengagement letters

**Sample language from OBC:**  
“[Lawyer] will maintain [Client’s] file for [6] years after this matter is concluded. [Client] may request the file at any time during, upon conclusion of, or after conclusion of, this matter. [Six] years after the conclusion of this matter, the file may be destroyed without further notice to [Client].”

# How to Organize Closed Files

## A Suggested Approach

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Periodically review files with special retention issues to determine if you need to continue to hold them. **MAINTAINING CURRENT CONTACT INFO FOR CLIENTS IS ESSENTIAL!**



5 - Review

Files with special retention issues should be segregated



4 - Segregate

Enter/write the scheduled destruction date in a way that you could generate a report at the end of each year with files up for destruction



3 - Start the Clock

Flag files that have special retention issues (i.e., "REVIEW BEFORE SHREDDING")



2 - Important!

Organized in chronological order by year when they were closed (paper & electronic)



1 - Order

# Final Thoughts

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## Your Reputation

- Clients' Security Board reimburses clients when deceased lawyers failed to manage client funds properly
- Commissioners under [S.J.C. Rule 4:01, § 14](#) could be long process & expensive for lawyer or estate

## And Legacy

- These processes could damage a lawyer's hard-earned professional reputation & legacy.

## Think About Loved Ones

- What challenges might your loved ones face if you don't plan for succession?

## And Colleagues

- Without an organized office and a clear succession plan, colleagues may struggle to assist in case of retirement, incapacity, or death.

## Talk to Them

- Use this opportunity to educate loved ones & colleagues about your impactful work, case handling, and emergency contacts.



Thank you!

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617-482-9600



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