



Law Society of Alberta
Locum Connect
Handbook

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1. Introduction

Why do you go away? So that you can come back. So that you can see the place you came from with new eyes and extra colors. And the people there see you differently, too. Coming back to where you started is not the same as never leaving.

Sir Terry Pratchett

Although the idea of legal locums is relatively new in Canada, their use is well-established in Australia, Britain and the USA.

Locums may be hired as short-term employees or independent contractors, full-time or part-time, and may perform their work on-site or remotely. The terms of their engagement can vary significantly to reflect the parties' needs and availability.

A locum may be brought in to oversee all facets of a lawyer's practice while that lawyer is away or may be directed to particular files or projects.

They may be used to provide a lawyer with help during peak periods or backlogs, when hiring an associate for a full time position isn't warranted or feasible.

They may assist on a big trial, do research or conduct document review, and the engagement ends when the project does.

Lawyers offering their services as locums may be recently admitted to the profession or experienced practitioners. They may seek the flexibility that a temporary engagement offers. Perhaps they are returning from a break in work themselves (e.g. maternity leave or having lost a previous position due to an economic downturn). As senior counsel with extensive experience, they may be using locum placements as a stepping stone to eventual retirement.

To respond to these needs, the Law Society of Alberta has established **Locum Connect** to provide a conduit for interested parties to connect with each other.

This handbook describes how Locum Connect works and offers advice to make it work better for you.

For questions, comments or concerns, please feel free to email locum.connect@lawsociety.ab.ca or call us at 1.800.661.9003.

2. Benefits of locum arrangements

The flexibility that locum arrangements offer make them extremely attractive for law firms and lawyers alike.

Locums are matched in response to identifiable criteria such as areas of practice, duration and location.

Law firms gain access to critical expertise without having to make long-term hiring commitments and burdensome overhead.

The arrangement can be tailored to specific needs at a specific time rather than a “one-size-fits-all” approach to client service.

From the locum’s perspective, they get to choose the timing, duration and frequency with which they take on assignments. For example, they may opt not to work during the summer months or choose to schedule their engagements around other educational and family commitments.

Benefits for Locums and Law Firms
<ul style="list-style-type: none"> • Enhances the quality of lawyers’ practices and the services they provide to the public.
<ul style="list-style-type: none"> • Assists lawyers to maintain better work-life balance by allowing them to step away from their practice when needed or desired (disciplinary suspensions, medical leaves, maternity leaves, vacations, sabbaticals, attendance at conferences, other CLE events, etc.).
<ul style="list-style-type: none"> • Assists the public by providing crisis coverage to lawyers during absences and temporary increases in workload.
<ul style="list-style-type: none"> • Allows law firms to evaluate potential new associates without requiring them to make a long-term commitment.
<ul style="list-style-type: none"> • Retains lawyers in the profession by allowing room for family, child rearing and community activities.
<ul style="list-style-type: none"> • Improves access to justice by allowing lawyers to work in alternative work arrangements (short-term, part-time, remote, task-based, etc.).
<ul style="list-style-type: none"> • Provides locum lawyers with opportunities to travel and experience different legal communities and practice styles.
<ul style="list-style-type: none"> • Lets locum lawyers see firsthand what works well and what to avoid. Helps them make better choices when it comes time to make decisions about setting up their own practices, deciding whether to join an existing practice or start their own, and where to live.
<ul style="list-style-type: none"> • Supports the needs of communities lacking access to legal counsel.
<ul style="list-style-type: none"> • Enables junior lawyers to earn a good income without committing to long term obligations such as the capital investment required to start a legal practice.
<ul style="list-style-type: none"> • Provides senior lawyers with an opportunity to remain engaged before moving to full retirement.

3. Being busy is not the same as being productive

If you are a lawyer with a busy practice, how many of the following do you agree with?

Maybe it's time to hire a locum.

Being Busy is Not the Same as Being Productive
<ul style="list-style-type: none"> • I haven't taken a holiday in two years.
<ul style="list-style-type: none"> • I miss family or other social events because of work.
<ul style="list-style-type: none"> • Sure I'd take clients out for lunch but don't dare because I'm too busy.
<ul style="list-style-type: none"> • I don't have the time to develop marketing material to grow my practice.
<ul style="list-style-type: none"> • I routinely work evenings or both days on the weekend.
<ul style="list-style-type: none"> • I don't attend seminars because I don't feel comfortable being away from the office that long.
<ul style="list-style-type: none"> • I missed a filing deadline in the last three months because I was too busy to notice it on my calendar.
<ul style="list-style-type: none"> • I often want to reschedule meetings because I'm too busy to prepare for them properly.
<ul style="list-style-type: none"> • I turn down work I could have handled if I weren't so busy.
<ul style="list-style-type: none"> • Clients are complaining that I take too long returning their calls or emails or that I'm not getting to their files.

4. How It Works

Cost

The Law Society operates Locum Connect as a free service for its members.

Who can serve as a locum?

Locums come from a wide variety of backgrounds.

Any lawyer who is, or is eligible to be, an active, insured member of the Law Society of Alberta can ask to be added to Locum Connect.

Lawyers offering their services as locums may be recently admitted and either don't want or can't afford to establish an independent practice of their own just yet.

Perhaps the locum lawyer is returning from a break in work themselves and seeks the flexibility that a locum arrangement could provide while they continue to search for a full time position.

Perhaps they wish to live and work in other communities and experience different practice areas before entering into a long-term commitment.

Perhaps they are experienced practitioners wishing to slow down but not ready for full retirement.

Who can hire a locum through Locum Connect?

Any member of the Law Society of Alberta.

What role can locums serve?

The scope, length and nature of a locum engagement can vary.

It can extend to all facets of a lawyer's practice while the lawyer is away on medical leave, maternity leave, sabbatical or simply taking a needed vacation. While the lawyer steps away, his practice and clients continue to be serviced promptly and professionally.

Engaging a locum may also be used to help during peak periods or backlogs when hiring an associate for a full time position isn't warranted or feasible.

A locum may be brought in to assist on a big trial, do research or conduct document review, and the engagement ends when the project does.

It might be full-time or part-time and may be done on-site or remotely.

Are locums guaranteed to find a position? Are firms guaranteed to find a locum?

No. Use of Locum Connect does not guarantee a placement.

How long do names remain on Locum Connect?

To maintain the integrity and currency of the registry, locum postings are deleted after six months. Before that happens, notice of a pending deletion is automatically sent to the locum. Locums are free to renew their listing as many times as they wish.

If a locum wishes to be removed from Locum Connect at any time, they can be easily request that their entry be removed. As this is a manual removal process, the post will be removed within 48 business hours.

5. Initial Registration & Matching

Lawyers wanting to be listed on Locum Connect complete a simple registration form consisting of two parts:

- A brief profile of themselves for publication on the Locum Connect section of the Law Society website. For privacy reasons, these profiles do not reveal candidates' names or contact information. A typical profile might be:

I was called in 2001. My practice has focused on family and matrimonial disputes, including custody/access applications, property division, and support. I have extensive trial experience and have co-counseled on a number of trials and large appeals. I can work in Central Alberta, primarily in and around Red Deer but would be prepared to relocate for an extended contract. I have a car and am available to travel as required. Available for work throughout the year.

- A description of their experience and training, as well as their availability based on the following chart:

		REGIONS							
		1 Calgary	2 Edmonton	3 Red Deer	4 Lethbridge	5 Medicine Hat	6 Drumheller	7 Fort McMurray	8 Grande Prairie
PRACTICE AREAS	Aboriginal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Administrative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Arbitration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Bankruptcy & Insolvency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Civil litigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Commercial	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Corporate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Criminal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Entertainment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Environment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Estate Planning & Administration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Immigration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intellectual Property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
International Business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Labour & Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matrimonial/Family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mediation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Real Estate Conveyancing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tax	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A firm thinking of hiring a locum can review the profiles posted on Locum Connect. If any look promising, they complete a simple registration form and request copies of the applications submitted by any locums that interest them.

Registration forms can be downloaded from the Law Society website. Completed forms and requests for information can be submitted to locum.connect@lawsociety.ab.ca.

Once a firm receives the candidates' application forms, they may reach out to those they would like to interview or they may decide that none of the candidates meet their requirements.

Beyond serving as a conduit for the sharing of this information, the Law Society does not participate in any of the subsequent negotiations or the terms of the engagement.

6. Confirm expectations and put it in writing

The parties should be clear in their expectations of each other. Be realistic. Confirm the arrangement in writing.

A summary of the key provisions of a locum contract and sample clauses can be found at the back of this handbook.

Confirm Expectations
<ul style="list-style-type: none"> • Is the locum expected to advance specific files or simply be available to another lawyer who will delegate work to them?
<ul style="list-style-type: none"> • Will the locum only be working in a backroom providing support or will they have direct contact

as well?
<ul style="list-style-type: none"> • Will the locum have any supervisory duties in connection with running the practice? A lawyer with no management experience may not be suitable for a supervisory position.
<ul style="list-style-type: none"> • If the scope of the position exceeds what was discussed, the locum may be entitled to refuse the extra responsibilities or may ask to renegotiate the compensation.
<ul style="list-style-type: none"> • The timing and method of remuneration need to be confirmed in advance. Will the locum be paid for statutory holidays or only for billable hours?
<ul style="list-style-type: none"> • Confirm which expenses will be paid by the firm and which the locum must account for himself (Law Society dues, insurance levees, travel and accommodation, meals, etc.).
<ul style="list-style-type: none"> • Is the arrangement for a fixed term or can it be terminated by either party? How much notice of termination is required?
<ul style="list-style-type: none"> • The lawyer needing assistance may be too ill to be involved in negotiating terms with the locum. If a colleague or family member is negotiating on their behalf, the locum should ask them to confirm that they are authorized to do so and that they will be responsible for the locum's compensation.
<ul style="list-style-type: none"> • Will the locum be eligible for health and dental benefits?

7. Legislative and Regulatory Matters

Active Status & Professional Liability Insurance

A locum must be an “active” member of the Law Society and maintain all of the normal insurance coverage required of active members.

For more information, contact our [Membership Department](#) or [ALIA](#).

Locum Bank Accounts

Like any sole practitioner, a locum who operates as an independent contractor must maintain general and trust accounts unless otherwise exempted.

For more information, contact our [Trust Safety Department](#).

Notify Membership Department & ALIA

When engaging a locum, a firm should advise the Law Society Membership Department that the locum has joined their practice.

For more information, contact our [Membership Department](#).

Articling Students

If the contracting lawyer is supervising an articling student and plans to be absent during the term of the locum, arrangements must be made to transfer the student's articles to another qualified lawyer.

For more information, contact our [Membership Department](#).

Responsible Lawyer

If the contracting lawyer remains available throughout the locum's engagement (for example, if the locum is only engaged to deal with a specific project or certain files), no trust accounting issues arise from the placement.

If the contracting lawyer plans to be absent and there is no one else to assume the role of Responsible Lawyer, the locum must:

1. apply to be designated as an Alternate Responsible Lawyer and
2. complete the LESA Responsible Lawyer courses

before they will be designated by the Law Society as an Alternate Responsible Lawyer.

To streamline the process, a lawyer wishing to serve as a locum may want to complete the courses before seeking any placement. The courses are free and available online.

For more information, contact our [Trust Safety Department](#).

Human Rights/Discrimination

The *Alberta Human Rights Act* applies to law firms and the placement of locums.

It is a contravention of the Act to discriminate against any locum on any of the grounds set out in the Act.

For more information, contact the Alberta Human Rights Commission at 780-427-7661 (Edmonton) or 403-297-6571 (Calgary).

8. Payroll deductions and GST

It is up to the parties to decide whether the locum will be hired as an independent contractor or employee.

A locum engaged as an independent contractor may be required to obtain a GST account from the C.R.A., issue formal invoices to the firm, and charge GST on those invoices. As a matter of prudence, when the locum receives payment, the relevant portion should be set aside in anticipation of income taxes. The locum may be able to claim work-related expenses as legitimate deductions for income tax purposes.

If the locum is an employee, the firm may be required to withhold payroll deductions and pay the employer's share of CPP and EI premiums.

Both parties should obtain professional accounting advice to consider the merits and costs associated with each of these options.

9. Hit the Ground Running

To protect the firm's reputation and clients' best interests, it is critical to put the appropriate arrangements in place before the locum begins work.

The Hand-Off	
Overlap	Plan a handover session prior to the start of the engagement. If possible, the locum should start work before the principal begins his leave in order to deal to introduce the locum to clients and to answer any questions from clients.
Briefing notes & file lists	<p>As early as possible, the locum should be given a list of files they will be working on.</p> <p>Memos should be prepared on each file outlining its history, current state and next steps.</p> <p>Priority items and upcoming deadlines should be flagged accordingly.</p> <p>On transactional files, any issues requiring attention prior to the closing should be highlighted.</p>
Reporting lines	If the principal is to be absent, the locum should be provided with contact information and instructions about what to do if the principal is "off the grid". If the locum is to report to other members of the firm, the reporting lines should be clearly identified.
Office procedures & administrative support	<p>Locums need the support and cooperation of the firm's personnel or the arrangement will be doomed to failure.</p> <p>Appropriate secretarial support should be made available to the locum.</p> <p>If the firm has an office manual, it should be given to the locum as soon as possible.</p> <p>If there is no handbook, the main procedures should be explained in writing.</p> <p>Practical matters like the time of mail deliveries, bank runs and after-hours access should be explained.</p>
Office systems & equipment	<p>Lawyers may want their locum physically in the office while they are away or may be comfortable with them working remotely.</p> <p>Ensure that locums have access to passwords for the firm's computer and accounting systems, a firm email address, office supplies (pens,</p>

	<p>paper, manuals and precedents) and access (keys, access codes) to the office itself to meet staff and clients or to gain access to file materials as needed.</p> <p>Locums should be introduced to the firm's bookkeeper and all staff, and develop a rapport as quickly as possible since they will be responsible for managing the practice while the lawyer is away.</p> <p>Locums need to be ready to use a variety of computers and operating systems without the benefit of an IT department to troubleshoot problems. Familiarity with Windows and Mac environments and leading practice management software will improve your marketability and improve your chances of being asked back for future engagements.</p>
Signing authority	<p>Will the locum be signing cheques? Have the necessary authorization forms been signed at the bank?</p> <p>Consider a dual signature signing authority with the locum as one signatory and a senior staff member from the office as the other. This protects both the locum and the firm while the principal lawyer is away.</p> <p>Consider a limit on the locum's signing authority for the general account.</p>
Client contact	<p>If the locum will have client contact, the firm should introduce them to clients in advance and explain the role they will serve while the principal lawyer is away.</p> <p>Reception staff should remind clients that their usual lawyer is away and that they will be seeing the locum instead.</p>
Business cards & marketing	<p>Depending on the length of the engagement, the firm should decide whether to issue business cards to the locum and how the locum will be identified on the firm's website.</p>
Mobility & accommodation	<p>Locums may be needed throughout the province, not just in large urban centers. Unless the lawyer's office is in commuting distance of the locum's normal residence, the engagement should address travel and accommodation needs.</p> <p>Who will book and pay for accommodation? Will the firm cover the cost of meals whether the locum cooks his own meals or eats out?</p> <p>If the locum is invited to stay at the lawyer's home, keys and alarm codes should be provided and there should be a frank discussion about sleeping arrangements, access to cooking facilities, pets, etc. Will the locum be expected to bring any household items?</p>
Handover at the end	<p>Before the locum leaves the firm, it's good practice to summarize the work done on each file and ensure that files are appropriately diarized. This is particularly important if the principal has been away for any period of time.</p>

10. Ethical issues

A complete copy of the Code of Conduct is available on the Law Society of Alberta [website](#).

Locums and firms should consider the following issues at the start of their relationship.

When in doubt, contact the Office of the Practice Advisor for assistance that is strictly confidential. The Practice Advisors can be reached at **1.866.440.4640** (toll free) or **587.390.8462**.

Ethical issues	
Due diligence by locums	Locums need to satisfy themselves about the professional reputation of any firm offering to engage their services.
Due diligence by law firms	<p>The Law Society does not screen locums or supervise their work.</p> <p>Law firms must verify a locum's disciplinary history and satisfy themselves that a particular locum is the right person for the job. Some locums are experienced. Others less so. Firms should satisfy themselves that:</p> <ul style="list-style-type: none"> • The locum is competent. • The locum has sufficient experience to do the job. • The locum has sufficient computer skills to use the firm's systems. • The locum's references check out. • The locum will uphold the firm's culture, ethical standards and business practices. <p>Firms can check the locum's status on our Lawyer Directory and review the Hearings and Outcomes page there as well.</p>
Don't exceed your training	<p>Locums should avoid practicing in areas in which they are not qualified. They must be satisfied that they have the ability and training to deal adequately with any legal matters undertaken.</p> <p>If an urgent matter arises and the locum cannot handle it, it should be referred to another lawyer who can. It is better to send the file away than to invite a negligence claim or a complaint to the Law Society.</p>
Emergencies	Be ready for emergencies. They will happen and always at the worst moment. Locums and senior staff should be provided with an emergency telephone number or email address for their lawyer and contact information for other lawyers who can handle matters outside the locum's training.

Client identification	Both the firm and the locum must comply with the Law Society's client identification and verification requirements.
Retainer agreements	When identifying the members of the firm who may provide legal service to a client, consider adding a paragraph that allows for the potential involvement of locums.
Whose client is it anyways?	<p>While the Code of Conduct makes it clear that the client is free to select the lawyer of his choice, locums should not expect (nor want to) take clients with them when they leave.</p> <p>All lawyers owe a fiduciary duty to their firm. Locums should not exploit their position in the firm for personal benefit or interfere with the firm's ability to conduct business.</p> <p>Firms will expect a locum to respect the relationships they have built up with their clients and their terms of engagement may include a non-solicitation provision to emphasize this point.</p>
Client confidentiality & conflicts of Interest	<p>The Code of Conduct applies to all lawyers, including locums. As with all solicitor-client dealings, locums should take care to avoid disclosing confidential information and should be aware of the potential for conflicts of interest.</p> <p>Because a locum may work at multiple firms over time, they may be exposed to confidential information which would put them in a conflict situation if they work for the opposite side in another firm. Locums need to be alert to this possibility and immediately cease handling any file if a conflict arises.</p> <p>Locums should maintain a list of clients for whom they provide legal services during their various placements.</p> <p>To protect the original client's confidentiality, note that the locum may not be able to reveal the reasons for the conflict.</p>
Billing rates	<p>Under the Law Society Rules, locums qualify as associates of the firms where they work, regardless of whether they are engaged as employees or independent contractors and whether full or part-time.</p> <p>As with any associate whose work is supervised and integrated with the firm's activities, legal fees can be charged for a locum's work at whatever rate the firm chooses, even if it is higher than the amount paid to the locum.</p> <p>If the locum operates at arm's length and the amount paid is treated as a disbursement, the Code of Conduct makes it clear that the firm can charge only those amounts actually paid. Disbursements cannot be grossed up.</p> <p>Whether a locum is hired as an employee or independent contractor is up to the parties.</p>

Undertakings & trust conditions	<p>In all cases, an undertaking is the responsibility of the lawyer who gives it.</p> <p>The Code of Conduct makes it clear that a lawyer must not give an undertaking that cannot be fulfilled and must fulfil every undertaking given. If a locum giving an undertaking doesn't intend to accept personal responsibility, this should be stated clearly in the undertaking itself. The use of such words as "on behalf of my client" does not relieve the locum of personal responsibility.</p> <p>Some undertakings and trust conditions - such as registering discharges at Land Titles on files the locum is handling - may be safely given but locums should be cautious about promises they have no ability to keep after their engagement ends. It's better for them to say no than expose themselves to liability.</p> <p>At the end of the locum contract, the returning principal should be briefed on any outstanding undertakings. The locum should retain a list and details of any undertakings given.</p>
Difficult clients	<p>Locums should deal with difficult clients professionally - as they would their own clients - but speak to a senior member of the firm before taking extreme action like showing the client the door.</p>
Insurance claims	<p>If a locum learns of a matter that should be reported to ALIA, this should be done.</p>
Professional misconduct	<p>Consider your obligation to report professional misconduct as you would in any other situation.</p> <p>If you believe another lawyer has:</p> <ul style="list-style-type: none"> • engaged in any conduct that raises a substantial question about the lawyer's honesty, trustworthiness, or competency as a lawyer; • stolen trust money; • abandoned his practice; or • participated in criminal activity related to the lawyer's practice; <p>you have a duty to report the matter to the Law Society in accordance with the Code of Conduct.</p>

Appendix: The Contract - Potential Issues and Sample Clauses

The relationship between the locum and the contracting firm/lawyer is contractual in nature so a written agreement is strongly recommended. The contract requires the same amount of careful drafting and review as you would give to a client's contract. Whether you use an agreement, engagement letter or some other form of contract, ensure that you address all the relevant issues for your circumstances.

Below is a list of important items that may form part of your contract. We have also identified potential issues and provided sample contract clauses.

- Definitions
- Parties
- Date of agreement
- Preamble (sample clause)
- Term or duration (sample clause)
- Title, where appropriate
- Duties and nature of work
- Supervision (sample clause)
- Access to contracting firm/lawyer/paralegal and notices (sample clause)
- Hours of work
- Vacation
- Remuneration and/or fee arrangement(s) (sample clause)
- Expenses
- Housing
- Support staff
- Office - equipment and resources
- Office policies and procedures
- Cancellation or termination (sample clause)
- Default or breach (sample clause)
- Solicitation of clients (sample clause)
- Solicitation of staff (sample clause)
- Confidentiality
- Professional liability insurance
- Indemnities
- Disputes and arbitration
- Entire Agreement
- Amendments
- Governing law

1. Definitions

The parties may want to define some or all of the following terms:

- End Date

- Start Date
- Term
- Locum
- Contracting firm/lawyer
- Termination
- Services
- Compensation
- Client **[Note: The definition of the term "client" does not permit the parties to derogate from the meaning of the term "client" or related obligations set out in the Code of Conduct.]**

2. Parties

Who are the parties to the agreement, (e.g. lawyers, law firms or professional corporations?)

3. Date of agreement

The parties should identify the signing and effective dates of the agreement.

4. Preamble

It may be helpful for the parties to set out the context of the locum's agreement.

SAMPLE CLAUSE:

Whereas the contracting firm/lawyer is about to commence a maternity leave, but wishes to ensure that the needs and interests of her clients are preserved and protected during her absence; and

Whereas **Locum [or use the locum's legal name]** is prepared to substitute for the contracting firm/lawyer during the said maternity leave", etc.

5. Term or duration

Typically, a contract will be for a short term or defined duration, whether for a vacation, maternity leave, medical leave or other circumstance. Accordingly, you might want to address such questions as:

- What is the start date?
- What is the completion or termination date of the relationship?

- How will the parties make provision for the extension of the term, if, for example, the absent practitioner is away longer than expected?

SAMPLE CLAUSE:

1. **[Locum]'s Agreement is for a fixed Term, commencing on [date] (the "Start Date") and ending automatically on [date] (the "End Date"), unless terminated earlier in accordance with the provisions set out below [refer to termination provisions by section or paragraph], or extended by mutual, written agreement.**
2. **[Contracting Lawyer] will be absent from [his or her] practice, in order to [insert reason for leave, e.g. maternity leave, disability leave, etc.]. [Contracting Lawyer] may, at [his or her] discretion, elect to return to work earlier than the End Date by providing notice in accordance with the provisions set out below [include terms that describe how a Contracting Lawyer may return earlier than the End Date, e.g. written notice of x weeks or months, whether compensation will be provided for the fixed Term, or whether it will be reduced; whether the Locum is expected to keep working for a certain period while the Contracting Lawyer returns to work (see Section 18). The parties may wish to include terms that address how the relationship could be extended, including whether written notice is required and how compensation will be addressed]**

6. Title, where appropriate

In most cases, a locum will not take on a title; but, where a title is appropriate, what is it?

7. Duties and nature of work

The scope of the work and duties for which the locum will be responsible will be an important topic for discussion. These details should be recorded in and/or appended to the agreement. Will the contracting firm/lawyer provide a detailed memo on active files for which the locum will have carriage? If so, by what date will the transfer memo be delivered to the locum, and will it allow for an opportunity before the departure of the contracting firm/lawyer for discussion and questions? Will the contracting firm/lawyer specify the steps to be completed, or stage to be reached, by the locum? Will the locum be responsible for checking and responding to voice mail and emails, or will the contracting firm/lawyer's staff initially clear all messages and direct those requiring a lawyer's attention to the locum?

You may also want to outline the approach and preferences of the contracting firm/lawyer in handling client matters and/or files, e.g. returning client phone calls within 24 hours, which the locum will be expected to maintain. If so, this should be recorded in the agreement to avoid misunderstanding.

The parties are reminded of their obligations under Rule 3.1-1 of the Code of Conduct concerning the relationship with clients and competence.

8. Supervision

Where the locum is in need of supervision, having regard to his or her degree of experience and expertise, the agreement can set out how and by whom such supervision will be provided. Similarly, if the locum's duties under the arrangement include providing supervision of junior lawyers, and/or staff, then the parties may wish to reflect that expectation.

SAMPLE CLAUSE:

[Locum] agrees to supervise associate lawyers **[name lawyers as appropriate]**, legal assistants and staff **[name staff and positions as appropriate]**. Supervision shall include the following **[revise as appropriate]**:

- a. Associate lawyers: **[describe supervisory duties the locum is expected to perform, e.g. supervise preparation for court appearances etc.]**.
- b. Legal assistants: **[describe supervisory duties the locum is expected to perform, e.g. delegation of work, day-to-day supervision of administrative and work-related responsibilities f legal assistants]**.
- c. Staff: **[describe day-to-day supervision, including hours of work, any special arrangements with particular employees of which the locum should be aware, payroll and/or benefits administration if applicable, performance management and discipline scenarios]**.

9. Access to contracting firm/lawyer and notices

How and when may the locum be able to contact the contracting firm/lawyer, if necessary, or at all? Where should important, time-sensitive documents, be sent?

SAMPLE CLAUSE:

1. **[Locum]** must contact **[Contracting Firm/Lawyer]** in any of the following circumstances **[the circumstances will vary for each Contracting Firm/Lawyer's practice and personal preferences,] for example:**
 - a. upon receipt of x, y, z pleadings or motions in respect of all, or specific, clients
 - b. upon receipt of an inquiry about a specific matter which the **[Name of Contracting Firm/Lawyer]** would like to handle himself or herself
 - c. upon receipt of an inquiry about an account
 - d. upon receipt of any questions from a financial institution, insurance company, payroll administration company etc.]
2. **[Locum]** should contact **[Contracting Firm/Lawyer]** in situations where a response or action is required and, in his or her professional estimation, it would be more appropriate for **[Contracting Firm/Lawyer]** to respond. **[The parties may want to provide more detail on the circumstances under which the locum should respond on his or her own.]**
3. **[Locum]**, or **[his or her designate, e.g. an employee of the Contracting Firm or a named individual]**, may open mail addressed to **[Contracting Firm/Lawyer]**, save and except for any mail from **[list any senders whose mail should not be opened by the locum]**. Any important notices that require a response from **[Contracting Firm]** by a specific deadline, and which cannot be answered by the Locum, should be forwarded to **[insert forwarding instructions]**.

10. Hours of work

Depending upon the nature of the practice and the work for which the locum is being retained, the parties may wish to specify certain office hours or hours of work.

The contracting firm/lawyer may want the locum to devote full time and attention to the contracting firm/lawyer's practice during the term, such that the locum will not have competing obligations. If so, this requirement should be set out in the agreement.

11. Vacation

Arrangements may have to be made for the locum's vacation if the locum term is lengthy.

12. Remuneration or fee arrangements

The parties will want to specify how the locum will be paid? For example, a fixed fee or salary for the services, and/or an hourly rate for billable, recorded time.

How does the contracting firm/lawyer want work/time to be recorded? This is important for client billing purposes and payment to the locum.

SAMPLE CLAUSES:

[The parties will have to decide whether the agreement will reflect an employment relationship, or an independent contractor relationship. They are advised to review the description of professional liability insurance in Section 23 below and contact ALIA to discuss specific details of the agreement.]

1. In consideration of the performance by **[Locum]** of the Services, **[Contracting Firm/Lawyer]** will provide payment in fixed **[weekly, bi-weekly, monthly]** installments of **[\$ dollars]**. **[The parties may wish to include a clause to address whether additional compensation will be provided where the locum exceeds a set number of billable recorded hours and whether a limit is appropriate.]**
2. **[Locum]** will be responsible and will remain exclusively liable for payment of all applicable governmental charges on any amounts paid to **[Locum]** by **[Contracting Firm/Lawyer]**, including but not limited to federal and provincial income taxes, GST, provincial sales taxes, employer health tax, Canada Pension Plan and any other taxes as required, and any interest or penalties related to any of the foregoing. **[Locum]** will be responsible for remitting any such amounts to the appropriate regulatory agency as required by law.

[The following clauses apply where the parties have selected an independent contractor type of relationship.]

Indemnity for income taxes:

3. **[Locum]** covenants and agrees to save harmless and indemnify **[Contracting Firm/Lawyer]**

[The parties will have to decide whether the agreement will reflect an employment relationship, or an independent contractor relationship. They are advised to review the description of professional liability insurance considerations in Section 23 below, and may wish to contact ALIA to discuss specific details of the agreement.]

Indemnity:

4. **[Locum]** agrees to indemnify **[Contracting Firm/Lawyer]** and its agents, servants and employees **[delete or add as appropriate]** against all claims, damages, losses and expenses (including but not limited to legal fees incurred in defending such claims) arising out of the performance of the Services by **[Locum]** which are caused in whole or in part by **[Locum]**'s acts or omissions. It is a condition of this Agreement that **[Locum]** have valid professional liability insurance as required by the Law Society of Alberta.

13. Expenses

How will expenses be covered for disbursements or non-disbursable costs incurred by the locum?

14. Housing

If the locum is going to be provided with housing during the locum period, the terms should be specified.

15. Support Staff

Will the contracting firm/lawyer's support staff be available to the locum and/or will the locum be expected to use his or her own staff?

16. Office - equipment and resources

Where will the locum work? Will the locum have use of the contracting firm/lawyer's office equipment, such as his or her desk, computer equipment, and access to the contracting firm/lawyer's resources?

17. Office policies and procedures

To the extent that the contracting firm/lawyer has office policies and procedures, is it expected that the locum will comply with those policies? If so, how will the locum be fully informed of and trained regarding the policies?

18. Cancellation or termination

On what terms may either party end the relationship?

Will it end automatically at the completion of the term, subject to extension on mutual consent in writing?

Can the contracting firm/lawyer terminate the relationship, without cause, by giving the locum notice? If so, how much notice is required, having regard to the needs of clients, the length of the agreement, the nature of the relationship, etc?

Can the locum terminate the contract before the end of the term? If so, how will the potential difficulty of an early termination be addressed by the contracting firm/lawyer? Will it be specified as a condition of early termination by the locum, that he or she will be responsible for the orderly transfer of client files to a mutually acceptable back-up? Should that back-up arrangement be in place in advance of the locum's departure? The Code of Conduct should also be kept in mind in such circumstances.

SAMPLE CLAUSES:

1. **[Contracting Firm/Lawyer]** may terminate this Agreement at any time by providing **[Locum]** with **[insert number of days or weeks notice]** written notice, or pay in lieu thereof, without any further obligation or compensation.
2. **[Locum]** may terminate this Agreement on giving **[insert number of days or weeks' notice]** prior notice of termination, which may be waived in whole or in part in the sole discretion of **[Contracting Firm/Lawyer]**. Upon the expiry of the notice period (or that part of the notice period which is not waived), **[Contracting Firm/Lawyer]**'s sole liability to **[Locum]** shall be to pay to **[Locum]** any Compensation up to the last day on which **[Locum]** performs the Services.
3. Notwithstanding the foregoing, it is a condition of early termination by **[Locum]** that **[he or she]** is responsible for the orderly transfer of client files to a mutually acceptable back-up lawyer **[consider naming an individual, or listing the minimum qualifications that a back-up locum must have]**.
4. **[Locum]** agrees that upon any termination of this Agreement for whatever reason, **[Locum]** shall at once deliver or cause to be delivered to **[Contracting Firm/Lawyer]** all books, documents, effects, monies, securities or other property **[insert or delete items as appropriate, e.g. computers, keys]** belonging to **[Contracting Firm/Lawyer]** or for which **[Contracting Firm/Lawyer]** is liable to others which are in the possession, charge, control or custody of **[Locum]**.
5. In the event of the termination of the Agreement under this section, **[Locum]** and **[Contracting Firm]** shall both ensure that there is no disruption to providing service to clients in a professional and competent manner. Furthermore, in the event that the Agreement is terminated for whatever reason, neither party shall engage in conduct that breaches the Code of Conduct.
6. The parties confirm that the notice provisions in this Agreement are valid and reasonable and are fair and equitable. The parties agree that upon any termination of this Agreement in compliance with this Agreement, the payments made by **[Contracting Firm/Lawyer]** in accordance with this Agreement shall satisfy all of the obligations that **[Contracting Firm/Lawyer]** has to **[Locum]**, and that upon the making of any such payments **[Locum]** shall not have any action, cause of action, claim or demand against **[Contracting Firm/Lawyer]** or any other person as a consequence of this Agreement or the termination of this Agreement, whether such claim arises pursuant to any applicable legislation, pursuant to this Agreement or otherwise at law.

19. Default or breach

Termination with cause, by either party, should be addressed in the contract. In the case of a termination by either party (e.g. locum terminates for failure by the contracting firm/lawyer to pay the locum, or contracting firm terminates for breach of locum to undertake the duties as agreed) the clients' needs and the parties' obligations pursuant to the Code of Conduct to the clients should be considered and should take precedence.

SAMPLE CLAUSES:

1. **[Contracting Firm/Lawyer]** may terminate the Agreement upon the occurrence of any of the following events:
 - a. the failure or refusal of **[Locum]** to perform the Services within **[a number of days or weeks by which [Locum] should begin to work]** after the Start Date;
 - b. any breach by **[Locum]** of any material term of this Agreement, or
 - c. any **[professional negligence, gross negligence, malfeasance]**, including any breach of the Code of Conduct on the part of **[Locum]** in performing **[his or her, as appropriate]** duties hereunder or rendering the Services.
2. **[Locum]** may terminate the Agreement upon the occurrence of any of the following events:
 - a. any breach by **[Contracting Firm/Lawyer]** of any material term of this Agreement;
 - b. **[insert other circumstances in which the locum may terminate the Agreement for cause]**
 - c. In the event of the termination of the Agreement under this section, **[Locum]** and **[Contracting Firm/Lawyer]** shall both ensure that there is no disruption to the provision of legal services to clients in a professional and competent manner. Furthermore, in the event that the Agreement is terminated for whatever reason, neither party shall engage in conduct that breaches the Code of Conduct.

20. Solicitation of clients

The contracting firm/lawyer may want to protect his or her client relationships from solicitation by the locum during and after the term.

Both parties should note that under the Code of Conduct, a client is free to select the lawyer of his/her choice. The commentary to Rule 3.7-1, dealing with withdrawal from representation provides

"Although the client has the right to terminate the lawyer-client relationship at will, a lawyer does not enjoy the same freedom of action."

The locum should be mindful of Rule 4.1 and 4.2 of the Code of Conduct relating to Making Legal Services Available and Marketing of Professional Services.

The parties may also want to restrict the extent to which the locum will solicit the contracting firm/lawyer's clients, at least during the contract and for some reasonable period following the contracting firm/lawyer's return.

SAMPLE CLAUSES:

1. **[Locum]** will not, for the duration of this Agreement, including where it is extended by mutual agreement as described in paragraph **[insert reference where applicable]**, or for a period of **[number of months]** following the termination of the Agreement for any reason:
 - a. solicit any Clients with whom she or he had contact with on behalf of **[Contracting Firm/Locum]** during the life of the Agreement, including where extended by mutual agreement; or
 - b. take any steps or make an approach, either directly or indirectly, to any prior existing client of **[Contracting Firm, Locum]**, which is designed to cause the client to discontinue his or her prior existing relationship with **[Contracting Firm/Lawyer]**.
2. Nothing in this paragraph should be interpreted or applied such that **[Locum]** or **[Contracting Firm, Locum]** would be in breach of the Code of Conduct concerning a client's right to approach a locum for the provision of legal services, or to terminate his or her lawyer-client relationship with any lawyer. The restrictions that the parties may agree to under this Agreement and the definition of the term "client" for the purposes of same does not permit the parties to derogate from the meaning of the term "client" or related obligations set out in the Code of Conduct.

21. Solicitation of staff

The contracting firm/lawyer may wish to protect against solicitation of his or her staff. The locum can agree not to solicit the contracting firm/lawyer's staff to leave the contracting firm/lawyer/paralegal's employ to work with the locum for a reasonable period, after the locum's term.

SAMPLE CLAUSES:

1. **[Locum]** shall not, for the duration of this Agreement, including any additional period by which the Agreement is extended by mutual agreement as described in paragraph **[insert reference where applicable]**, or for a period of **[number of months]** following the termination of the Agreement for whatever reason:
 - a. solicit any employees with whom she or he had contact with on behalf of **[Contracting Firm/Lawyer]** during the life of the Agreement, including where extended by mutual agreement; or
 - b. take any steps or make an approach, either directly or indirectly, to any employee of **[Name of Contracting Firm/Lawyer]**, which is designed to cause the employee to discontinue his or her employment with **[Contracting Firm/Lawyer]**. **[consider naming particular employees or positions that are particularly sensitive to solicitation, e.g. an experienced assistant or a valued associate]**.

22. Confidentiality

The contract should specify that the locum will keep confidential all matters and information pertaining to the business and practice of the contracting firm/lawyer/paralegal.

23. Professional liability insurance

It is the locum's responsibility to ensure that his or her professional liability insurance practice coverage is in place and properly accommodates the locum work. This includes ensuring, for example, that the locum work is appropriately insured by ALIA's mandatory liability insurance policy.

The contracting firm/lawyer should satisfy themselves that the locum is properly insured, since the locum is working on their behalf and they may be affected and have related policy obligations. It is also important for both parties to consider what excess and other insurance needs there may be and whether such policies would respond.

The [ALIA website](#) contains further information on practice coverage and related issues.

24. Indemnities

Is the locum an employee of the contracting firm/lawyer? If so, wages or salary paid to the locum are subject to all applicable/statutory deductions and withholdings.

The locum may be an independent contractor retained by the contracting firm/lawyer to provide services, but not as an employee, in which case the locum's remuneration would not be subject to employment related withholdings.

Particularly in the latter instance, the parties should include a statement that the locum is responsible for taxes, along with an indemnity of the contracting firm/lawyer from obligations, interest and/or penalties for employment-related taxes and withholdings.

25. Disputes and arbitration

The parties may want to include an arbitration clause, so that any disputes between the contracting firm/lawyer and the locum will be resolved by way of binding arbitration. The parties may also wish to specify that even jurisdictional issues are to be determined by the arbitrator.

Other considerations include:

- whether arbitration will be in accordance with the *Arbitration Act (Alberta)*
- location of the arbitration hearing
- method of selecting an arbitrator, and whether the arbitration will proceed before a sole arbitrator or a panel
- who will bear the cost of the arbitration and whether the arbitrator will have discretion to award costs
- whether the process is confidential
- what procedure will be used and/or how procedural issues will be resolved

26. Entire Agreement

The parties may want to state that the contract is the entire agreement between the parties, and that neither party is to rely upon any representations or other agreements. If there are other agreements that should be incorporated by reference, (e.g. a separate document addressing retainers with particular clients), that should be stated in the contract.

27. Amendments

How may the parties make amendments to the agreement and must they be in writing?

28. Governing Law

Particularly where the locum is retained while outside the province, it is advisable to identify the governing law, and, particularly absent an arbitration clause, the preferred jurisdiction in which disputes will be determined.

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