


ONTARIO BAR ASSOCIATION
 A Branch of the Canadian Bar Association

NEW RULES ON CLIENT IDENTIFICATION AND VERIFICATION

Priority PD:
Important Updates on Virtual Verification of Client Identity

Ray Leclair
 Vice-president, Public Affairs

Lawyers' Professional Indemnity Company

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AGENDA

- Law Society of Ontario Rules
- Individual and corporate ID theft
- Tips to verify ID
- Resources
- Questions

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BY-LAW 7.1

IDENTIFICATION

Obtaining basic identification information about the client and any third party that the client is acting for or representing.

SOURCE OF FUNDS

Obtaining source of funds information from the client where there is a financial transaction.

RECORD KEEPING

Recording and retaining all information acquired during the identification and verification process.

VERIFICATION

Verifying the identity of client or 3rd party where lawyer is engaged in or giving instructions in respect of a “financial transaction”.

MONITORING

Periodically monitoring the professional business relationship with the client when retained in respect of a financial transaction that is ongoing.

WITHDRAWAL

If at any point while retained, including while obtaining identification and verification information, withdrawing from representation if the lawyer or paralegal knows or ought to know that they would be assisting in fraud or other illegal conduct.

Effective January 1, 2022

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Changing January 1, 2024

CLIENT IDENTIFICATION AND VERIFICATION*

*These requirements are in force as of January 1, 2022. Review Part III of By-Law 7.1 for more information and defined terms. Consult the Law Society's Practice Management COVID-19 FAQs for additional information about client identification and verification in the context of COVID-19.

ACTIVITY

DELIVERING LEGAL SERVICES

Licensee retained to provide legal services regardless of whether new or existing client

REQUIREMENTS

CLIENT IDENTIFICATION

Unless an exemption applies, licensees must obtain the following information about:

- Client
- Third Party
- Each individual authorized to give instructions on behalf of an organization with respect to the matter

| | |
|---|---|
| <p style="text-align: center; font-weight: bold;">INDIVIDUALS</p> <ul style="list-style-type: none"> • Full name • Business address and telephone number, if applicable • Home address and telephone number • Occupation(s) | <p style="text-align: center; font-weight: bold;">ORGANIZATIONS</p> <ul style="list-style-type: none"> • Full name • Business address and telephone number • Incorporation or business ID number and place of issue / incorporation (except financial institutions, public bodies and reporting issuers) • General nature of business (except financial institutions, public bodies, and reporting issuers) • Name, position, and contact information for individuals authorized to give instructions with respect to the matter |
|---|---|

ACTIVITY

RECEIVING, PAYING, OR TRANSFERRING FUNDS

Licensee engages in or gives instructions in respect of the receipt, payment, or transfer of funds

REQUIREMENTS

CLIENT VERIFICATION

Unless an exemption applies, licensees must verify the identity of:

- Client
- Third Party
- Individuals authorized to give instructions on behalf of an organization in the matter

EXEMPTIONS

- Engaged by employer (e.g., in-house lawyer or paralegal)
- Engaged as agent for another licensee or lawyer authorized to practise law in Canada who has already complied
- Engaged for client referred by another licensee or lawyer authorized to practise law in Canada who has already complied, or
- Duty counsel in the limited circumstances prescribed in By-Law 7.1 or a legal aid services providers under the *Legal Aid Services Act, 1998*, except when duty counsel is engaged in the receipt, payment, or transfer of funds (other than an electronic funds transfer as defined in By-Law 7.1).

EXEMPTIONS

- Client is a financial institution, public body, or reporting issuer
- Funds are received, paid, or transferred by electronic funds transfer
- Funds are paid by or to a financial institution, public body, or reporting issuer
- Funds are received from the trust account of another licensee or lawyer authorized to practice law in Canada
- Funds are received from a peace officer, law enforcement agency, or other public official acting in their official capacity
- Funds are paid or received to pay a fine, penalty or bail or
- Funds are paid or received for:
 - Fees billed or to be billed to a client for legal services provided by the licensee or the licensee's firm
 - Disbursements

EXEMPTIONS

- Licensee must obtain information from the client about the source of funds being received, paid, or transferred

MONITORING

- Licensee must periodically monitor the professional business relationship with client to:
 - Determine if client's information regarding activities, source of funds, and instructions are consistent with purpose of retainer and information previously obtained
 - Assess if there is a risk of assisting with or encouraging fraud or other illegal conduct
- Licensee must also keep a record of the measures taken and information obtained

EXEMPTIONS

WITHDRAWAL

- Licensee who knows or ought to know that they would be assisting a client with fraud or other illegal conduct must decline or withdraw from representation

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DEEPPAKES & VOICE CLONING!



<https://www.youtube.com/watch?v=J0FjQeMGJnU>

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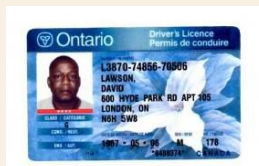
WHAT ABOUT THE IN-PERSON EXPERIENCE?



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TIPS WHEN VERIFYING ID DOCUMENTATION IN-PERSON:

- **Do NOT simply copy & file!**
- Does the picture match the client sitting in front of you?
- Pictures on various ID documents the same?
- Is the person in the picture smiling?
- Apparent age in picture vs date of ID document
- Ontario driver's license number
 - starts with 1st letter of last name
 - Ends with person's date of birth
 - Women's month date - 0 replaced by a 5; 1 by a 6;
- Signature in ID document match your client's signature?
- Laminated ID no longer valid



Search validity of Ontario driver's license for free: www.dlc.rus.mto.gov.on.ca

- AGCO - Responsible Service [Tip Sheet](#): Checking ID

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CORPORATE RECORDS FRAUD

- Form of identity theft but of the corporation
- Fraudster files change of Directors and Officers and/or Registered Office
- Shows up with "made up" minute book
- Attempts to refinance or sell property
- Be aware, look for:
 - Last filing on Corporate Profile Report
 - Get listing of filings for the corporation

Article: <http://avoidclaim.com/2017/recognizing-the-red-flags-of-real-estate-scams-involving-corporate-identity-theft/>

October 19, 2021 - New Ontario Business Registry
<https://news.ontario.ca/en/release/1000749/province-launches-new-modern-ontario-business-registry>



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OBR – ONTARIO BUSINESS REGISTRY

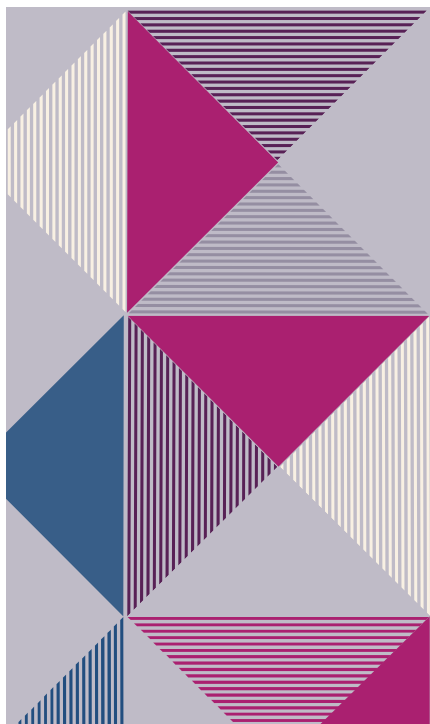
- Ontario Business Registry launched on October 19, 2021
- Government-authorized service providers:
 - [ecore by Dye & Durham Corporation](#)
 - [ESC Corporate Services Ltd.](#)
 - [OBR Partner Portal \(Beta release\) - Application](#)
- 8 (1) - The Minister shall enter into a record the information from every return and notice received under this Act. 1995, c. 3, s. 4. (*Corporations Information Act, R.S.O. 1990, CHAPTER C.39*)
- 21 - The Minister may accept the information contained in any return or notice filed under this Act without making any inquiry as to its completeness or accuracy. R.S.O. 1990, c. C.39, s. 21; 1994, c. 17, s. 42.
- Issue of reliability of Form 1 information (directors/officers/registered office)
- Reliance on Corporate Profile Report - see *Am-Stat Corporation v. Ontario*, [2018 ONCA 877](#) - "We agree with the motion judge's conclusion that reliance by third parties on the information accepted by the Ministry is not contemplated by the Act."

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DIACC
DIRECTORY OF
IDENTIFICATION
MANAGEMENT
AND PROOFING
PRODUCTS

List of vendors of ID verification products

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STATUS OF ID VERIFICATION

TITLE INSURERS

Stewart Title ([Treefort](#)); FCT ([Bluink](#));
 Chicago (VerifID); TitlePLUS (TreeFort)

REAL ESTATE SOFTWARE PROVIDERS

LawLabs' Closer ([Treefort](#)); LDD's Realtiweb;
 Dye & Durham's Unity ([Treefort](#));

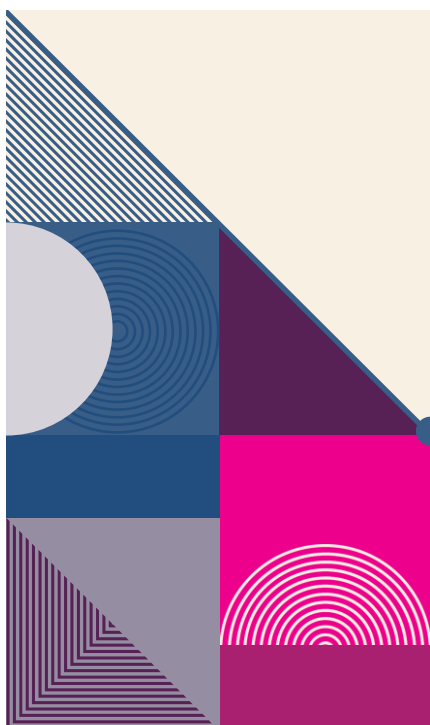
OTHER REGULATORS

Regulators of financial institutions ([Interac Verified](#)); mortgage brokers and real estate agents looking at what rules should be implemented

LAND REGISTRY OFFICE

Considering implementing ID verification for any application to the Land Titles Assurance Fund!

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SUMMARY

Client identification is not a simple copy and file exercise!

Many frauds are based on fraudulent identification

This will continue and increasingly be a more challenging issue for lawyers

Better to have a robust client ID process than to have to deal with a claim

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RESOURCES

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- Client Identification and Verification [Flowchart](#)
- [Methods](#) to Verify an Individual
- [Virtual Verification](#) of Client Identity
- [Examples](#) of Government Issued Photo Identification
- [Examples](#) of Reliable Sources of Information
- FAQs about [client ID](#); [Source of funds](#) or [Monitoring](#)
- [Forms](#) & Sample Agent [Agreement](#)
- LAWPRO Fraud Sheets - [Real Estate](#) / [Corporate](#)
- [Easy tips](#) to verify ID
- New Ontario Photo Identification Card [info](#)
- AGCO - Responsible Service [Tip Sheet](#): Checking ID

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THANK YOU

Raymond G. Leclair, LL.B.
 Vice President, Public Affairs, LAWPRO
 Toronto, Ontario
 (416) 598-5890 or 1-800-410-1013
ray.leclair@lawpro.ca



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