

TENNESSEE COMMISSION ON CONTINUING LEGAL EDUCATION
AND SPECIALIZATION

Law Practice Management Checklist

“The challenge in law practice management is in motivating ourselves and those with whom we work to take the time and have the courage to conduct an honest review of the strengths and weaknesses of our management policies and systems and to successfully implement needed changes.”

Completing this checklist will, at the least, motivate you to take some time to review your management policies and systems. The courage to implement needed changes is up to you.

As you go through this checklist, remember that its primary purpose is to get you, as a certified specialist (or applicant) to think carefully about your law practice management system and that of any firm in which you may practice. If a particular question is not applicable to you because of your practice situation (e.g., government attorneys) please simply write “**NA**” and attach a letter describing your practice. Short of indicating a major shortcoming under your ethical responsibilities (e.g., answering “**No**” to item 40), your answers will not keep you from being certified, so use this as an opportunity for honest analysis. For each item, circle the response or number which most nearly represents your response.

CLIENTS

There is no such thing as a lawyer without at least one client. (If you do not agree, look up the definitions of “lawyer” and “attorney”). As a “profession,” lawyering has special ethical rules, most of which deal with our responsibilities to our clients, and how conflicts between those responsibilities and other responsibilities (to courts, to society) should be resolved. And, without enough (paying) clients, most attorneys will not be attorneys for long. Thus, law practice management, like lawyering itself, must focus on clients.

1. I have a written statement of the types of clients I and my staff desire and are prepared to serve, the nature of the services I am prepared to provide, and the compensation which I must expect from my clients. No Yes

Conflicts

Because of our obligations to each client, we cannot be “lawyer” to clients whose interests conflict.

2. I have a system which exists outside of my own head (i.e., written or computerized) to identify my past and present clients and those of all other attorneys in my firm. No Yes

3. My firm's conflict of interest system identifies opposing parties, persons associated with or related to clients, corporate officers, directors, and affiliated entities, as well as potential conflicts of non-attorney employees of my firm. No Yes
4. My firm's conflict of interest system is current to within at least the last: Year Month Week Day
5. I check my (firm's) conflict of interest system before accepting employment by a new client or allowing the client to disclose confidential information. Never Always
 1 2 3 4 5 6 7
6. I place documentation confirming my check of my (firm's) conflict of interest system in each new client file or other appropriate file. 1 2 3 4 5 6 7
7. In the event of potential conflicts between the interests of a prospective client and a past or present client, I inform both the prospective client and the past or present client of the nature of the conflict and obtain their consent to representation. 1 2 3 4 5 6 7
8. After informing clients and prospective clients of potential conflicts and obtaining their consent to representation, I document this consent and any limits on such consent and file such documentation in the new client file or other appropriate file. 1 2 3 4 5 6 7
9. I understand that informed consent is only viable for dealing with potential conflicts, and is never a "cure" for actual conflicts. No Yes

Engagement

Because what we sell to clients is both intangible and to be delivered in the future, it is easy for misunderstandings to arise as to the exact nature of our representation, its limits and cost.

10. I review with each new client the subject matter and nature of my representation, the fee for that representation, and how that fee is to be billed and paid. Never Always
 1 2 3 4 5 6 7
11. My review with each new client of the subject matter and nature of my representation includes providing the client with a written description of such representation, the fee to be paid, and the agreed billing arrangements. 1 2 3 4 5 6 7

- | | Never | | | | | | | Always | | | | | | |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-----------------------------|--------------------------|--------------------------|------------------------------|--------------------------|--------------------------|--------------------------|
| 12. I obtain each new client's written consent to the subject matter and nature of my representation, the fee to be paid, and the agreed billing arrangements. | 1 | 2 | 3 | 4 | 5 | 6 | 7 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. If I am not employed by a potential client after consultation, or if I withdraw from a matter, I document in writing the fact of non-representation and provide a copy of such documentation to the client or potential client. | 1 | 2 | 3 | 4 | 5 | 6 | 7 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. On termination of representation, I return all documents and materials to the client and refund any unearned fee. | 1 | 2 | 3 | 4 | 5 | 6 | 7 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. My non-representation letter states that no attorney/client relationship exists, warns the recipient that statutes of limitations may apply, and recommends that the recipient obtain a legal opinion from other counsel. | | | | | | | | | | | | | | |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | No <input type="checkbox"/> | | | Yes <input type="checkbox"/> | | | |

Deadlines

The practice of law is dominated by deadlines. Some are created by statute or court rule, some are set by our clients, and some we give ourselves. Losing track of deadlines is the short road to malpractice and discipline. Fearing you've lost track is almost as bad.

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| 16. My firm has a docket/work control system which tracks statutory and self-imposed deadlines, adequate reminders of approaching deadlines, client appointments, shareholder meetings, opposing parties' deadlines, promises made to others, etc. | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 17. My firm has written, step-by-step procedures for using our docket/work control system. | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 18. All of my firm's staff have been trained in the procedures for using our docket/work control system. | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 19. My firm's docket/work control system prominently marks all final deadlines so as to draw immediate attention to them. | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 20. There is at least one identical, complete backup for my firm's docket/work control system. | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 21. One person is designated to oversee the docket/work control system for my firm. | No <input type="checkbox"/> | Yes <input type="checkbox"/> |

22. Every open file in my firm's docket/work control system has at least one follow-up date, including inactive but unclosed files. No Yes
23. Every open file in my firm's docket/work control system has a follow-up date within the next eight weeks, if only for a status check. No Yes
24. My firm's docket/work control system includes procedures to ensure that matters are completed before they are removed from the system. No Yes
25. My firm's docket/work control system ensures that deadlines are caught when the responsible attorney or staff member is absent. No Yes
26. Matters needing docketing are entered into my firm's docket work control system in a regularly and timely manner. No Yes

Client Relations

“Clients may not be experts in the legal arena, but they are extremely capable experts when it comes to judging the quality of how they are being treated.”

27. I regularly communicate to my staff that I expect our clients to be treated courteously and professionally at all times. No Yes
30. I return client's telephone calls, or have a member of my staff return them, within 24 hours. Never Always
31. I keep clients informed of developments in their cases, including copies of all correspondence.
32. I follow up with clients by letter or phone call at least every six weeks even when their cases are inactive.
33. I meet promptly with clients at the scheduled time.
34. I thank clients for the opportunity to serve them and for any referrals they send. No Yes
35. My firm has a written policy on the confidentiality of client matters and all the firm's staff has been trained in accordance with that policy. No Yes

36. I have reviewed Ethical Consideration 3-6 and DR 3-101 and 3-102 and believe that the use of legal assistants, paralegals, and secretaries in my firm complies therewith. No Yes

37. My firm has taken precautions to protect important original documents, exhibits from loss, damage or destruction. No Yes

Attorney/Staff Relations

38. I have reviewed my relations with my staff, my firm's policies or staff training, continuing education and encouragement of professional activities by staff members and believe that these areas make a positive contribution to client service for my clients. No Yes

Money Matters

Indeed it does. Whether fees or trust funds, or the firm's money, it must all be handled correctly.

39. I have read Formal Ethics Opinions 92-F-128, 92-F-128 (a), and 92-F-128 (b) on the ethical and fiduciary responsibilities relating to retainer fees, advanced fees, advanced costs and expenses, float fees, pre-paid fees, and nonrefundable retainer fees and believe that my practices in this area confirm with these Opinions. No Yes

40. I have read Formal Ethics Opinion 89-F-121 on the mechanics of trust accounting and have reviewed my firm's policies in this area to ensure that they satisfy my duties for trust accounting. No Yes

41. My staff has been trained on Formal Ethics Opinion 89-F-121 and the mechanics of my firm's trust accounting system. No Yes

42. I and my staff maintain adequate records, including, when appropriate, records of time spent and expenses incurred to document and justify the reasonableness of all fees and charges. No Yes

Continuous Improvement

- 43. I have reviewed this checklist and selected one area as the area where I would most like to see myself, my staff and my firm improve during the next year. No Yes

- 44. I have written down at least one specific action I will take in the next week to begin the improvement process in the area I have selected. No Yes

Attorney's signature

Date

For additional information on subjects contained in this checklist:

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