

**Risk Management &
Professional
Responsibility
Law Practice
Assessment**



Lawyers Mutual Insurance Co.
of Kentucky

Risk Management & Professional Responsibility Law Practice Assessment

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This is published by Lawyers Mutual Insurance Company of Kentucky. The contents are intended for general information purposes only and should not be construed as legal advice or legal opinion on specific facts or circumstances. It is not the intent of this publication to establish an attorney's standard of care for a particular situation. Rather, it is intended to advise our insureds to act in a manner which may be well above the standard of due care in order to avoid claims having merit as well as those without merit.

INTRODUCTION

This Law Practice Assessment is designed to assist lawyers in methodically analyzing their practice from a risk management perspective. It is organized using law practice standards, law office management systems, and professional responsibility rules as a framework for work review. Some of the questions may appear generic in nature, but all questions ultimately involve important risk management and loss prevention principles. The questions are structured to provide information while causing you to reflect on your practice habits and standards. When you have completed this assessment you will have accomplished the following:

- Comprehensively reviewed a spectrum of risk management for lawyers.
- Gained valuable information for your practice concerning malpractice exposures which can be held to a minimum.
- Developed a list of specific actions you should take to implement an effective risk management program for your practice and prevent malpractice claims.

The underlying premise of this assessment is that knowing the right question to ask when faced with a potential ethics or malpractice issue is more than halfway to resolving it. By completing this assessment, you will be much more familiar with the questions you should be asking yourself as you go about your busy daily activities. One of today's ironies is that nothing is overlooked more frequently than the obvious. Upon completion of this Law Practice Assessment you will have a firm grip on the obvious of loss prevention and be in better control of your practice and future.

Deborah J. Dorman
Dulaney L. O'Roark, Jr.
Co-Editors

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I. LAWYER/STAFF CONSIDERATIONS

	Yes	No	Action Required
A. Practice Planning:			
1. Do you have a formal business plan with short and long range goals and objectives?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. If yes, do you set time aside to periodically evaluate the plan?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Do you establish an annual budget and is the budget reviewed during the year?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. Are key people or is a committee involved in setting goals and objectives?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
5. Do you get advice from outside professionals, (e.g., auditors, accountants, law firm consultants, bankers)?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
6. Does your firm have a written partnership or office sharing agreement?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
7. Do you keep abreast of law office technology development which could improve the quality of your work?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
8. Do you make Risk Management a part of your practice planning?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
B. Hiring Lawyers:			
1. Does your firm have a well articulated policy on hiring to include qualifications, experience, integrity, motivation, and character?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
2. Do you always talk to a prospect's former associates, partners and senior lawyers?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Do you go beyond references given by the prospect?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. Do you inquire about the past malpractice history of the prospect and any firms with which they may have been affiliated?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____

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	Yes	No	Action Required
5. Do you inquire about the prospect's current and past professional liability insurance coverage?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
6. Do you compare the prospect's insurance coverage with your firm's coverage for an informed decision whether to accept the prospect's prior acts for protection under your policy?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
7. Do you check the prospect's current and former clients and past law firm affiliations for conflicts with your existing clients or clients you would like to have in the future?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
8. Do you review and monitor the status of all carryover matters the new hire will bring to your firm?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
9. Do you have a system to monitor and supervise newly hired associates to assure that they understand your firm's practice procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
10. Do new associates understand they may not obligate the firm to new matters without coordination, and they must insert carryover matters into your work control and case management systems?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
11. Do you have parallel procedures to those listed above for hiring paralegals and administrative staff?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

C. Professional Development:

- 1. Firm Policy:
 - a. Does the firm have a well articulated policy on its objectives for lawyers and staff for professional development and continuing legal education?

 - b. Is a lawyer in the firm designated specific responsibility for oversight of the professional development program?

I. LAWYER/STAFF CONSIDERATIONS

	Yes	No	Action Required
c. Does the firm encourage professional development by:			
(1) Financing attendance?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Encouraging teaching?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Does the firm measure professional development efforts by firm member to include the Kentucky Bar requirement for lawyers of 12.5 hours annual CLE which must include at least two hours of ethics instruction?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
2. Professional Development Programs:			
a. Does the firm subscribe to publications focusing on Risk Management and Loss Prevention for both lawyers and staff?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
b. Does the firm give a thorough orientation on firm practices to new lawyers and staff members?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
c. Does the orientation include professional responsibility considerations such as			
(1) The Kentucky Rules of Professional Conduct?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Client confidentiality?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(3) Safeguarding client funds and property?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(4) Conflicts of interest?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(5) What to do upon receipt of a malpractice claim?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(6) What to do if a question of professional ethics arises?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
(7) What to do if the member has a personal problem affecting work performance?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
d. Does the firm conduct regular in-house CLE programs for lawyers?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
e. Does the firm have in the office audio-visual equipment for CLE and professional development programs?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Special Considerations for Staff:			
a. Does the firm have a meeting with paralegals and administrative employees to discuss professional responsibility, Risk Management, and issues of concern to the staff?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
b. Is each staff member given specific training on:			
(1) Firm practice procedures and office rules?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(2) Job knowledge and skills required for successful work performance?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
(3) Use of office equipment and facilities?	<input type="checkbox"/>	<input type="checkbox"/>	_____
(4) Unique aspects of a lawyer's professional responsibility and the role staff plays in meeting this responsibility?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
c. Does the firm have an ongoing program for developing staff skills in office technology and regularly send staff to work skill improvement courses?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____

D. Lawyer/Staff Relations:

1. Does the firm have and distribute to each member an office practice manual or operating procedure guide?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. Does the firm have regular lawyer/staff meetings at which staff participation is encouraged?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Do you review case status at the staff meeting?	<input type="checkbox"/>	<input type="checkbox"/>	_____

I. LAWYER/STAFF CONSIDERATIONS

	Yes	No	Action Required
4. Do lawyers introduce staff to clients and explain the staffs' non-lawyer, but essential role as part of the client's legal team?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
5. Do you provide time for staff training and continuing education?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
6. Do you require every employee to take an annual vacation?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
7. Do you regularly evaluate personnel needs?	<input type="checkbox"/>	<input type="checkbox"/>	_____

E. Stress and Dependency Issues:

1. Do you know of someone in your office who is dealing with:			
a. The death of a spouse or close family member?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Personal injury to a family member?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Marital separation or divorce?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Do you allow time off for counseling for any of these situations?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Do you know that the KBA offers confidential assistance through the Of Counsel Committee?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. Do you suspect someone in your office of having a substance abuse problem?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
5. Do you provide confidentiality to someone requesting help in finding a substance abuse program?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
6. Do you know that chemical dependency is a treatable disease and dependency recovery is more likely when requested by employer than when requested by family or friend?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
7. Do you know that the KBA offers confidential assistance to someone in need of a substance abuse program?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

II. CLIENT MANAGEMENT

	Yes	No	Action Required
A. Client Intake Procedures:			
1. Does the firm have well understood screening criteria for new clients which take into consideration:			
a. Whether the prospective client has changed lawyers or has been rejected by other lawyers?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Whether the firm and the prospective client are unable to easily reach an understanding on fees or the client appears to be price shopping?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Whether the prospective client has unrealistic expectations for the case?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Whether the prospective client has an unreasonable sense of urgency over the matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Whether the prospective client has done considerable personal legal research?	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Whether the prospective client wants to proceed as a matter of principle regardless of cost?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Does the firm use an initial interview form for each new client or matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Based on the information on the initial interview form is the firm's conflicts of interest check system used to determine whether there:			
a. Is a conflict with a current client?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Is a conflict with a former client?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Is a subject matter conflict resulting in the firm simultaneously taking opposite sides of the same issue?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Is a conflict with firm paralegals or administrative staff?	<input type="checkbox"/>	<input type="checkbox"/>	_____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
4. Do the firm's client intake procedures guard against receiving too much confidential information prior to making a conflict check?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
5. Do the firm's conflict procedures include checking the firm's institutional memory by circulating new client matters to all firm members (lawyers and staff)?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
6. Do all new clients receive an explanation of client confidentiality and any exceptions that might apply to their case?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
7. Does the firm routinely use engagement letters to document the services to be rendered to include:			
a. Scope of the engagement?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Nature of the services to be performed?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Any excluded items or areas related to the matter which the firm will not handle?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
d. Realistic estimate of fees and expenses?	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Billing and payment procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Copy of the initial interview form?	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Does the firm send a certified mail non-engagement letter when declining a new client?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
9. Does the non-engagement letter:			
a. Provide clearly that the representation will not be undertaken?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
b. Advise that there is always potential for a statute of limitation or notice requirement problem if the matter is not promptly pursued elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
c. Comply with the applicable standard of care if any legal advice or information, whatsoever, is given?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

II. CLIENT MANAGEMENT

- | | Yes | No | Action Required |
|--|--------------------------|--------------------------|-------------------------|
| d. Advise that other legal advice be sought? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| e. Avoid stating an exact legal reason for the declination, why the claim lacks merit or why other parties are not liable? | <input type="checkbox"/> | <input type="checkbox"/> | _____

_____ |

B. Client Relations During the Course of Representation:

- | | | | |
|--|--------------------------|--------------------------|-------------------------|
| 1. Is the client sent regular communications concerning the case even during inactive phases? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 2. Is the client sent information copies of all appropriate documents and correspondence concerning the case? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 3. Are client telephone calls returned within 24 hours? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 4. Are client appointments scheduled in a manner not to involve long waits? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 5. Is the client billed periodically, normally on a monthly basis? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 6. Does the client know whom in the firm to contact if the primary lawyer is unavailable? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 7. Is all important advice to the client confirmed in writing? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 8. Is the client informed of all settlement offers? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 9. Is the client's consent obtained before making settlement offers or accepting or rejecting offers? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 10. Are all actions or decisions of the client contrary to the given legal advice documented with a copy provided to the client? | <input type="checkbox"/> | <input type="checkbox"/> | _____

_____ |
| 11. Is there a conflict check during periodic reviews of the case for conflicts arising over the course of representation? | <input type="checkbox"/> | <input type="checkbox"/> | _____

_____ |

Yes No Action Required

C. Termination of Representation:

1. Upon completion of a matter is the client notified in writing that services are concluded? Yes No
2. Does the firm have file closure procedures to assure that papers and property are returned to the client upon completion of services? Yes No
3. Are lawyers familiar with the professional responsibility rules governing when a lawyer may or must withdraw from representation? Yes No
4. Is it understood that if a lawyer is lawyer-of-record in a matter in litigation the lawyer may not withdraw without the court's permission? Yes No
5. If a lawyer withdraws or is discharged, is this fact confirmed in writing to the client? Yes No
6. In the event of withdrawal or discharge, does the firm have procedures for orderly transfer of the file and notification in writing of other parties? Yes No
7. Does the firm maintain files on matters from which they have withdrawn or been discharged in the event of a malpractice claim? Yes No
8. Does the firm have procedures to manage situations in which either the lawyer or client dies, becomes incompetent, or is incapacitated? Yes No
9. Does the firm carefully review all new matters before acceptance in which another lawyer has withdrawn or been discharged in terms of client screening, statutes of limitation, and notice requirements? Yes No
10. Does the firm have procedures for client notification or termination when a lawyer leaves a firm or the firm dissolves? Yes No
11. Do lawyers understand former client conflicts of interest rules (Ky. Rule of Professional Conduct 1.9)? Yes No
12. Do lawyers understand the continuing requirement of maintaining confidentiality of former client matters? Yes No

**Take the opportunity to receive timely,
worthwhile information at no risk or obligation.**



**Lawyers Mutual Insurance Co.
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Lawyers Mutual provides the best malpractice coverage for you.

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- Innocent Partner Coverage
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- Predecessor Firm Coverage

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Lawyers Mutual Insurance Co. of Kentucky

Questionnaire For Premium Indicator

Firm: _____
Address: _____
County: _____ City: _____ State: _____ Zip: _____
Phone#: _____ FAX: _____

1a. Please provide the number of attorneys and their years of experience:
of Attorneys # of Attorneys
5+ Years _____ 2 Years _____
4 Years _____ 1 Year _____
3 Years _____
1b. Of those Attorneys in 1a, how many practice part time?
of Years of Experience
1-10 Hours Per Week _____
11-20 Hours Per Week _____
21-30 Hours Per Week _____

2. What percentage of time -not income- do you spend in the following practice areas? (must equal 100%)

2a. Please circle your choice.

Table with 2 columns: Practice Area, Percentage. Includes categories like Admiralty, Anti Trust/Trade Regulations, Banking, Bankruptcy, BI/PI Defendants, etc.

Table with 2 columns: Practice Area, Percentage. Includes categories like Sydication, Estate Planning, Estate Probate/Trust, International Law, etc.

Desired Limits of Liability

Table with 2 columns: Liability Limit, Percentage. Includes values like \$ 100,000 / 300,000, \$ 250,000 / 750,000, etc.

Desired Deductible

Table with 2 columns: Deductible Amount, Percentage. Includes values like \$ 1,000, \$ 2,500, \$ 5,000, \$ 7,500, \$ 10,000, \$ 15,000, \$ 20,000, \$ 25,000.

YOUR CLAIMS HISTORY

3. Have you had or reported any claim(s) in the last five years? Yes* No

Table with 4 columns: Claim One, Claim Two, Claim Three. Rows for Date Reported and Amount Paid, including defense expenses (if closed).

Describe the claims on a separate sheet.

4. How many lawyers in the firm have recieved at least 20 CLE credits in the preceeding KBA's CLE year, July 1 - June 30? _____

YOUR INSURANCE HISTORY

- 5. Current Carrier: _____
6. How long have you been continuously insured? _____
7. Current expiration date: _____
8. Current premium: _____
9. Current limits & deductible: _____

III. OFFICE SYSTEMS AND PROCEDURES

Yes No Action Required

A. Documentation:

- | | | | |
|---|--------------------------|--------------------------|----------------|
| 1. Do firm files include letters of engagement signed by the client? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 2. Does the firm send letters of non-engagement for every case declined? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 3. Does the firm use letters of disengagement when withdrawing from a case? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 4. Does the firm send letters of closing on the completion of a legal matter? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 5. Does the firm confirm in writing a client's decision to disregard legal advice? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 6. Do firm files include all documents prepared or received for that particular matter? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 7. Do lawyers and staff document and file telephone conversations with clients? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 8. Do firm files provide a detailed chronological record of the work done? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |

B. Telephone Procedures:

- | | | | |
|---|--------------------------|--------------------------|----------------|
| 1. Are incoming calls answered professionally without delays? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 2. Is the length of time a client is placed on hold closely monitored? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 3. Are clients given some idea of when they can expect a return call if a lawyer is unavailable? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 4. Do clients receive an explanation at the onset of the relationship of the firm's policy of returning their calls as soon as circumstances allow? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

- | | Yes | No | Action Required |
|--|--------------------------|--------------------------|-----------------|
| 5. Do lawyers explain to the staff how to manage difficult, demanding clients? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |
| 6. Are all calls documented and placed in the client file? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

C. Conflicts:

- | | | | |
|---|--------------------------|--------------------------|-------------------------|
| 1. Do lawyers stay abreast of court decisions, the Kentucky Rules of Professional Conduct, and ethical opinions which disqualify lawyers from representation? | <input type="checkbox"/> | <input type="checkbox"/> | _____

_____ |
| 2. Does the firm have a conflict of interest system which includes the following information: | | | |
| a. Client? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| b. Spouse of client? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| c. Opposing party? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| d. Spouse of opposing party? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| e. Bank or accounting firm of clients? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| f. Matter? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| g. Corporation? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| h. Principal corporate owners, officers and directors? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| i. Parent and subsidiary companies? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| j. Formerly held businesses? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| k. Other professionals serving a corporate client? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| l. Business type? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| m. Legal matter? | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 3. Is a conflict check made before receiving confidential details of a new matter? | <input type="checkbox"/> | <input type="checkbox"/> | _____
_____ |

III. OFFICE SYSTEMS AND PROCEDURES

	Yes	No	Action Required
4. Are new matters discussed with other lawyers in the office at least weekly to determine potential conflicts?	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Are firm lawyers involved in the following risky arrangements:			
a. Having a joint financial interest in client matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Engaging in business transactions with a client?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Serving as both counsel and officer or director for a client?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Accepting stock or an equity interest in lieu of legal fees?	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Does the firm have a procedure to ensure that a lawyer cannot issue an opinion without review by another lawyer when the opinion giver has a personal and financial interest in the matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Are new hire candidates' previous employers and clients reviewed for potential conflicts?	<input type="checkbox"/>	<input type="checkbox"/>	_____

D. Docket and Work Control:

1. Does the firm have a primary and secondary system of cross checking dates, typically a lawyer and assistant with dual cross-referencing?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Is there a central docket calendar with all firm lawyer activities by date and time?	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Are changes or updates made on both the primary and secondary calendars then immediately forwarded to the person responsible for the central calendar?	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Does the litigation docket system include:			
a. Statutes of limitation?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Procedural deadlines?	<input type="checkbox"/>	<input type="checkbox"/>	_____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
c. Trial and hearing dates?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Dates for document preparation, research and commitments to clients?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
5. Does the control system for non-litigation include:			
a. Real estate closings?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Dates for estate planning, wills and tax returns?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Renewal dates for copyrights, patents or trademarks?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Filing and hearing dates for administrative agencies, commissions or boards?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
e. Corporate annual meetings, directors meetings, annual report filings and tax dates?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
6. Is the docket system designed to regularly remind everyone involved in an upcoming deadline with sufficient time to react and complete in a quality conscious manner?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
7. Does the docket system have a procedure for verifying the completion of events or the appropriate rescheduling of events?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
8. Do lawyers indicate on the docket personal appointments and commitments to keep the office informed of their whereabouts?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
9. Are dates identified and entered into the system without delay?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
10. Are there written docket system procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____

E. File Maintenance:

1. Is a new file opened for each client matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Are all files kept in a central location?	<input type="checkbox"/>	<input type="checkbox"/>	_____

III. OFFICE SYSTEMS AND PROCEDURES

	Yes	No	Action Required
3. Does the firm have procedures for removal and return of files so they can be immediately located?	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Are active files regularly reviewed?	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Are files taken out of the office?	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Does the firm have specific procedures for file closing to include sending file closing letters to clients?	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Are copies made of relevant file contents before releasing files to former clients, etc?	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Are closed files stored separately from active files?	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Are closed files reviewed with regard to new statutory and/or case law which could have an affect on the former matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____

F. Confidentiality/Office Security:

1. Does the staff avoid discussing client matters in the "public" areas of the office (e.g., reception, kitchen, elevators, restrooms, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Is the visibility of legal documents controlled to avoid exposure to other clients or visitors?	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Are client files returned to authorized personnel only?	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Does the staff understand the importance of maintaining complete confidentiality of client information?	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Are there safeguards to protect clients' files or their valuables from loss by hazard (e.g. fire, water damage, theft)?	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Are fire extinguishers readily available and do all employees know where they are located and how to use them?	<input type="checkbox"/>	<input type="checkbox"/>	_____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
7. Are files secured in locked cabinets or drawers at the end of the day?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
8. Are computer back-up systems stored at an off-site location?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
9. Does the firm's commercial insurance policy include valuable papers and business interruption coverage?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

G. Client Funds:

1. Are client funds segregated from personal and firm accounts?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. Does the firm maintain accurate and up-to-date records of client fund transactions?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Is the client provided with a detailed accounting of the fund receipts and disbursements?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. Do lawyers supervise the staff responsible for managing client funds?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
5. Does an independent auditor review and reconcile client fund accounts?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

H. Billing Procedures:

1. Does the firm communicate to the client verbally and in writing the fee or billing procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. Does the firm occasionally inquire about billing satisfaction during the progress of a case or other legal matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Are client statements itemized and sent on a monthly basis?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. Is enough detail provided so the billing can be justified if it is disputed?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

III. OFFICE SYSTEMS AND PROCEDURES

	Yes	No	Action Required
5. Are internal time records submitted no less often than weekly?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
6. Is a final statement prepared within 30 days of completing a matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
7. Does the firm remain abreast of unpaid balances and send reminders?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

IV. PRACTICE STANDARDS

	Yes	No	Action Required
A. Accepting New Matters:			
1. Has the firm identified the range of legal matters in which it has competence and expertise?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Prior to accepting new matters outside the normal areas of practice are the following factors considered:			
a. Is the new matter so foreign to the firm's routine business that time and resources are not available within the firm to adequately provide the service required?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. If the new matter requires an outside consultant lawyer, does the firm maintain a list of qualified lawyers or otherwise have the means of identifying a consultant with the requisite expertise?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. What is the status of the lawyer to be assigned the matter in terms of subject matter knowledge, overall experience, and current workload?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. What special resource requirements, to include staff support, consultants and travel, will accepting a non-routine matter entail?	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Is the client prepared to pay for any extraordinary costs because the firm does not routinely work with this area of law?	<input type="checkbox"/>	<input type="checkbox"/>	_____
B. Routine Practice Techniques:			
1. Does the firm have adequate:			
a. Record keeping?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Mail procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Accounting?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Billing?	<input type="checkbox"/>	<input type="checkbox"/>	_____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
e. Work and docket control systems?	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Conflicts of interest check system?	<input type="checkbox"/>	<input type="checkbox"/>	_____
g. Office equipment (automation, word processing, telephone, copying)?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. Does the firm have routine document preparation procedures such as:			
a. Form books?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Form files?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Brief banks?	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Does the firm use checklists routinely for such matters as:			
a. Title search?	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Real estate closing?	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Will preparation?	<input type="checkbox"/>	<input type="checkbox"/>	_____
d. Depositions?	<input type="checkbox"/>	<input type="checkbox"/>	_____
e. Due diligence requirements?	<input type="checkbox"/>	<input type="checkbox"/>	_____
f. Other routine matters?	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Does the firm plan to automate routine practice techniques and procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

C. Research Capability:

1. Does the firm have an adequate law library for its normal practice requirements?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
2. Is there a readily available comprehensive law library?	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Does the firm have access to electronic research?	<input type="checkbox"/>	<input type="checkbox"/>	_____

IV. PRACTICE STANDARDS

	Yes	No	Action Required
4. Does the firm adequately budget for and routinely update the firm's library?	<input type="checkbox"/>	<input type="checkbox"/>	<hr/> <hr/>

V. RISK MANAGEMENT

	Yes	No	Action Required
A. Office Organization for Loss Prevention:			
1. Does the firm have written procedures providing how the firm will manage risk and indicating the specific responsibilities of each lawyer and staff member for loss prevention?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
2. Has a committee or lawyer been designated to supervise loss prevention, malpractice claims, and professional liability insurance for the firm?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
3. Has a senior lawyer been designated an Ombudsman to discreetly receive and evaluate information from any members of the firm concerning potential ethical or malpractice issues?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
B. Loss Prevention Training:			
1. Does the firm have periodic ethics and loss prevention continuing legal education programs for lawyers and staff?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
2. Are all new hires, lawyers, and staff given a formal orientation on office procedure with special emphasis on ethics and loss prevention principles?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
3. Does the firm subscribe to periodicals or purchase library materials concerning ethical and loss prevention issues?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
C. Professional Liability Insurance:			
1. Does the firm have professional liability insurance?	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Does the firm have faith in the financial strength of its insurance company?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
3. Does the firm know the insurance company's claims service history?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
4. Are the policy exclusions understood in terms of how they relate to the firm's practice?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
5. Does the coverage include the non-lawyers on the staff?	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Are policy limits and deductible regularly reviewed for adequacy?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
7. Does the firm's insurance company offer claims avoidance assistance (e.g. seminars, claims repair hotline, malpractice prevention bulletins, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
8. Is the concept of "prior acts" coverage understood?	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Is the "claims made" policy form understood?	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Does another lawyer review the application for any misrepresentations before submission?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
11. Is the firm's legal professional liability insurance explained to new hires?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
12. Are all lawyers in the office familiar with the insurance company's claim reporting procedures?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____

D. Malpractice Claims Management:

1. Is every member of the firm instructed to report a malpractice claim or potential claim to a designated Loss Prevention Partner or other responsible lawyer in the firm?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
2. Do office procedures require immediate reporting of a malpractice claim or potential claim to the firm's professional liability insurance company?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
3. If the initial claim report is made telephonically, is it understood that an oral report should be immediately followed with a written report containing the information required by the professional liability insurance policy?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____ _____
4. Is it understood by all lawyers that the firm's representation for a malpractice claim must be coordinated with the insurance company?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____

V. RISK MANAGEMENT

	Yes	No	Action Required
5. Do the firm's lawyers understand the concept of claims repair and how the insurance company's claims counsel is able to assist in obviating or mitigating a claim with immediate assistance?	<input type="checkbox"/>	<input type="checkbox"/>	_____

6. Do office Risk Management procedures provide for protecting and preserving without alteration the file for the matter in question?	<input type="checkbox"/>	<input type="checkbox"/>	_____

7. Is it clear that documentation concerning the alleged malpractice should be maintained separate from the underlying matter?	<input type="checkbox"/>	<input type="checkbox"/>	_____

E. Office Sharing:

1. Is there any aspect of your office sharing arrangement which could give clients reason to believe they are employing a partnership (i.e., with some or all of the lawyers sharing the office space with you)?	<input type="checkbox"/>	<input type="checkbox"/>	_____

2. Do marquees, door signs, letterheads, business cards, pleading papers, "Of Counsel" designations or telephone listings potentially mislead clients into believing a partnership exists?	<input type="checkbox"/>	<input type="checkbox"/>	_____

3. Do lawyers sharing offices refer to each other as partners, go into each others office at will, discuss business in front of clients or visitors, have mutual bank accounts, or file partnership tax returns?	<input type="checkbox"/>	<input type="checkbox"/>	_____

4. Is there a written agreement setting forth all the terms and conditions of the shared office arrangement?	<input type="checkbox"/>	<input type="checkbox"/>	_____

5. Does the written agreement contain a strict prohibition against any lawyer representing the shared office as a partnership (providing a basis for rebutting an alleged de facto partnership because any such representation was specifically unauthorized)?	<input type="checkbox"/>	<input type="checkbox"/>	_____

6. Does the written agreement require that exceptions must be documented and explained to the client?	<input type="checkbox"/>	<input type="checkbox"/>	_____

RISK MANAGEMENT & PROFESSIONAL RESPONSIBILITY LAW PRACTICE ASSESSMENT

	Yes	No	Action Required
7. If another lawyer in the shared office is consulted, does the written agreement require that the client be informed and that fee division requirements of Ky. Rule of Professional conduct 1.5, Fees, be scrupulously followed?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____ _____
8. Does the written agreement require all lawyers to carry professional liability insurance with the same insurance company and with the same limits, deductible and renewal date?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
9. Does every lawyer sharing offices use client letters of engagement which include a clear explanation of the legal nature of the entity being retained and to what extent, if any, the client will receive services of other lawyers in the shared offices?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____ _____
10. Is office space organized to the maximum extent feasible to make clear that the lawyers sharing offices are independent practitioners?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
11. Do receptionists answer the telephone in such a way to avoid giving the impression of a law partnership?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____
12. Are telephone listings, mail and fax reception procedures, and filing systems clearly separate guaranteeing complete client confidentiality?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____
13. Are temporary employees thoroughly oriented on the nature of the office sharing arrangement and the requirement of client confidentiality before being allowed to meet the public or process documents?	<input type="checkbox"/>	<input type="checkbox"/>	_____ _____ _____ _____

ENDNOTE BIBLIOGRAPHY

This Law Practice Assessment is the research product of numerous publications and articles. Given the nature of loss prevention techniques, redundancy and overlap are inherent in these authorities. This makes it difficult to credit any single source for a concept. Accordingly, this bibliography serves to credit all sources in one large endnote rather than attempt to cite in each part of this assessment numerous authorities.

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