



The State Bar *of California*

CALIFORNIA PARAPROFESSIONAL PROGRAM WORKING GROUP

Date: August 19, 2021

To: Regulation Subcommittee

From: California Paraprofessional Program Working Group Staff

Subject: Program Evaluation vis-à-vis Proactive Regulation

At its July 29, 2021, meeting, the Regulation Subcommittee articulated a need to identify paraprofessional program evaluation metrics prior to developing recommendations for proactive regulation. This memo provides an overview of CPPWG discussions regarding proactive regulation, and a summary of options for evaluation for consideration by the Regulation Subcommittee.

Proactive Regulation

Proactive regulation is intended to mitigate potential risks, which have been identified as follows:

- Consumer overpays for legal services
- Consumer receives incompetent legal services
- Consumer receives unregulated legal services

The following regulatory measures have been considered:

- MCLE/Toolkits
- Self-Assessment
- Ethics Hotline/Online Resources
- Case File Review
- Client Surveys

The Regulation Subcommittee discussed the value of focusing on measures that will be supportive of paraprofessionals' ability to provide competent services, including MCLE/toolkits, and access to an Ethics Hotline and online resources. Concerns were expressed about measures that might prove burdensome, such as a mandatory self-assessment, or too burdensome to implement, such as case file review.

Attachment A provides a summary of evaluation metrics discussed by the Working Group and additional metrics identified in the NCSC report. Staff has highlighted those metrics that it will recommend to the Working Group for inclusion in the overall program evaluation design. To

the greatest extent possible, fundamental metrics have been included; these metrics rely on court data and will allow for comparison with similar programs in other states. Where fundamental measures appear to be burdensome in terms of data collection or address a comparative analysis that the Working Group has already determined it is infeasible to undertake, (e.g., outcomes compared to next best alternative) staff does not recommend inclusion of that metric.

Attachment B provides a summary of self-assessment program options in selected jurisdictions, as well as self-assessment tools used in several of those jurisdictions. This information is intended to facilitate the Regulation Subcommittee's discussion of this measure.

Metric	Program Objective/ Potential Risk	Data Points	Data Source	Indicator Type	Recommendation
Program Viability	Increased access/ Justice Gap reduced	Number of licensees/market coverage	Internal data	Supplemental	Program Evaluation
		Volume of use	Survey	Supplemental	
		Stable and sufficient regulatory funding source	Internal data	Supplemental	
		Sufficient income potential for licensees to stay in business	Survey	Fundamental	
Equity and Access	Increased access/ Justice Gap reduced	Demographics of paraprofessionals and their clients	Survey	Fundamental	Program Evaluation
		Number of self-represented litigants (reduced?)*	CMS/JBSIS		
		Justice Gap (reduced?)	Survey		
Case Outcomes/ Client Satisfaction	Consumer receives incompetent legal services	Overall satisfaction	Survey	Fundamental	Proactive Regulation & Program Evaluation
		Procedural satisfaction	Survey	Fundamental	Do not collect: burdensome
		Time to process cases	CMS/JBSIS	Fundamental	
		Results (Outcome Favorability)	CMS/JBSIS	Supplemental	
Legitimacy/Political Sustainability	Increased access/ Justice Gap reduced	Lawyer, judicial officer, and general public sentiment about the program	Survey	Fundamental	Program Evaluation
		Perceived market threat to attorneys	Survey	Supplemental	Do not collect: infeasible
Affordability	Consumer overpays for legal services	Fee structure transparency: consumer understanding of service offerings and price points	Survey	Supplemental	Proactive Regulation & Program Evaluation
		Hourly rates			
		Per case/event rates			
		Number of hours to complete services			
Manner of Disposition	Consumer receives incompetent legal services	Disposed on merits of case/mediation/settlement vs. administratively dismissed for failure to prosecute/default judgment: comparison of paraprofessional clients vs. SRLs	Court CMS/JBSIS	Fundamental	Do not collect: burdensome
Public Trust in the Legal System	Increased access/ Justice Gap reduced	Compliance with Court Orders: comparison of non-compliance events among paraprofessional clients vs. SRLs	Court CMS/JBSIS	Fundamental	Do not collect: infeasible

* Requires collection of baseline data prior to program implementation.

Key: Metric identified by CPPWG Metric identified by NCSC

Metric	Program Objective/ Potential Risk	Data Points	Data Source	Indicator Type	Recommendation
		Public Trust after program implementation, compared to before program implementation*	Survey	Supplemental	
Efficiency in Case Processing	Consumer receives incompetent legal services	Time to disposition	Court CMS/JBSIS	Fundamental	Do not collect: burdensome/infeasible
		Number of proceedings	Court CMS/JBSIS	Supplemental	
		Attorney use of expertise (attorneys working at the top of their licensing, spending a larger proportion of their time dealing with complex matters)	Court CMS/JBSIS	Supplemental	
		Use of court staff time	Survey	Supplemental	
Efficiency in Paraprofessional Training	Consumer receives incompetent legal services	Consistency between training and practice	Survey	Fundamental	Do not collect: infeasible
		Cost of education		Supplemental	Program Evaluation
Access, Equity and Market Effects	Increased access/ Justice Gap reduced	Percentage of litigants who would have otherwise gone unrepresented	Survey	Fundamental	Do not collect: burdensome/infeasible
		Percentage of low-income or rural litigants after program implementation, compared to the percentages before program implementation*	CMS/JBSIS	Fundamental	
		Equity in disposition: Group disparities in the likelihood of deciding a case on the merits after program implementation, compared to group disparities before program implementation*	CMS/JBSIS	Supplemental	
		Equity in outcome favorability: Group disparities in case outcome favorability after program implementation, compared to group disparities before program implementation*	CMS/JBSIS	Supplemental	
		Diversity of court user population: Representativeness of the court user population after program implementation, compared to representativeness before program implementation*	CMS/JBSIS	Supplemental	

Jurisdiction	Mandatory or Voluntary	Anonymous or Identifiable	Notes
Colorado	Voluntary	Anonymous	The assessment is available both online and as a printable survey. Anonymity can be fully realized if the user downloads the assessment and completes it offline .
Illinois	Mandatory for uninsured attorneys who represent private clients	Confidential	Responses are not discoverable in disciplinary proceedings
Wyoming	Voluntary	Not submitted online	Downloadable checklist
Nova Scotia	Mandatory	Identifiable	If a self-assessment indicates that a law firm or sole practitioner does not have in place appropriate policies, practices and systems to support the elements for a management system for ethical legal practice, such reporting will not result in an investigation.
Ontario	Mandatory for certain selected practitioners in their first 8 years of practice.	Identifiable	If during the course of the Practice Management Review attendance, concerns are identified with firm processes and procedures that present a risk to client service and which are beyond the scope of your responsibility at the firm, then the Practice Review Department will be obliged to bring these matters to the attention of the firm's management for their consideration and action.

Colorado Consolidated Lawyer Self-Assessment

Proactive Management-Based Program Subcommittee

The Colorado Lawyer Self-Assessment Program is a voluntary program created to help lawyers with their professional development. It is designed to mitigate risk, elevate competence, and enhance the quality of legal services delivered to clients. It gives you the chance to see what is working and what could be improved when it comes to law firm management and meeting professional obligations. The goal is to prevent problems before they arise. This should allow you to spend more time on cases. While not every question applies to every law practice, and it is ok to skip a question if it does not apply, collectively the following questions give you the opportunity to see how you can better serve clients and run your practice more efficiently. After completing this consolidated self-assessment, you may use the affidavit available on the Lawyer Self-Assessment Program homepage to claim CLE credit for your participation in this program. You can access the program’s homepage through www.coloradosupremecourt.com. Choose the “Lawyer Self-Assessment Program” link on the right. Please note that this consolidated self-assessment references certain educational resources more than once because they address a variety of professionalism topics.

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SELF-ASSESSMENT #1 — DEVELOPING COMPETENT PRACTICES

Colo. RPC 1.1 requires lawyers to provide clients competent representation. This includes the requisite legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. A lawyer should consider issues of competence when accepting a new matter and when substantively or procedurally expanding an existing matter, *e.g.*, whenever the lawyer addresses a new claim, files counterclaims, identifies other issues not previously considered, when unforeseen issues develop, when interpreting a contract previously drafted or negotiated by the lawyer, or at any point when the procedural course or substantive nature of the matter deviates from that which the lawyer initially envisioned. This self-assessment form provides examples of issues to consider and resources to explore.

Question	Yes	No	Ethical Implications	Sample Resources
When taking on new matters, do you assess whether you have the legal knowledge and education to handle the matters?				
Does your assessment include:			<ul style="list-style-type: none"> A lawyer must understand the form and substance of the disclosure required to be made to the client to obtain informed consent. Colo. RPC 1.4. A lawyer cannot delegate the duty of competence to the client. <i>See In re Shipley</i>, 135 S. Ct. 1589-90 (2015). A lawyer must not charge a client fees for time spent achieving competence. Colo. RPC 1.5. A lawyer should ask, “Can I afford this obligation to get up-to-speed for which I will not be compensated by the client?” Colo. RPC 1.1 cmt. 6. Colo. RPC 1.1 cmt. 2. A lawyer who realizes that he or she has a competence problem should immediately seek assistance: covering up incompetence often results in far graver charges of misconduct. 	<p>Alan Gutterman, Practical Challenges of Meeting Your Duties of Competence and Diligence to Your Clients, Legal Solutions Blog (Thomson Reuters), July 18, 2016.</p> <p>Christopher Sabis and Daniel Webert, <i>Understanding the “Knowledge” Requirement of Attorney Competence: A Roadmap for Novice Attorneys</i>, 15 GEO. J. LEGAL ETHICS 915 (2002).</p>
• Whether you are familiar with the applicable governing statutes, rules, regulations, and case law?				
• Whether you are familiar with the governing rules of procedure and court or applicable tribunal rules?				
• Whether you are familiar with any recent changes in applicable substantive or procedural law?				
• Whether you are familiar with the factual context and subject matter?				
• Whether you are familiar with any recent changes in applicable substantive or procedural law?				
• Whether you are familiar with the governing Rules of Professional Conduct?				
If you find that you do not have the legal knowledge to handle a matter, do you assess whether you can:				
• Timely acquire the knowledge or education to handle the case and whether you have resources available to do so?				
• Learn from, associate with, or seek supervision or mentoring from a lawyer with established knowledge in the relevant field?				
• Limit the scope of representation to work within your current knowledge base or within the reasonably-expandable scope of your knowledge base?				

<ul style="list-style-type: none"> Possibly handle the matter depending on whether the required proficiency is that of a general practitioner, or whether expertise in a particular field of law is required? 				
<ul style="list-style-type: none"> Have the client provide informed consent (preferably in writing after a full explanation of the competencies necessary) to a limited scope of representation? 				
When taking on new matters, do you assess whether you have sufficient expertise, training, or access to mentoring or other assistance such that you have the legal skills to handle the cases? (application of skills to black letter law)				
Does your assessment include: <ul style="list-style-type: none"> Whether you have handled matters in the same practice area before? 			<ul style="list-style-type: none"> The scope of a matter will affect the competence that the lawyer will need to possess. A lawyer must understand the form and substance of the full disclosure to be made to the client to obtain informed consent. Colo. RPC 1.4. A lawyer must not charge a client fees for time spent achieving competence. Colo. RPC 1.5. The lawyer should ask: can I afford this burden for which I will not be compensated by the client? If a lawyer contracts with or retains other lawyers outside the lawyer's own firm to assist in the representation, the lawyer must reasonably believe that the other lawyers' services will contribute to the competent and ethical representation of the client. Colo. RPC 1.1 cmt. 6. If lawyers from more than one firm are providing legal services in the same matter, the lawyers should consult with the client and each other about the scope of the representation and the allocation of responsibility. Colo. RPC 1.1 cmt. 7. Colo. RPC 1.1 cmts. 2, 5, 8. Colo. RPC 1.2. 	<p>See Self-Assessments #4 and #7 for limited scope disclosures and informed consent.</p> <p>Mark Bassingthwaighe, Getting It Right with Client Selection (ALPS Corp.), Aug. 26, 2014.</p>
<ul style="list-style-type: none"> Whether you have handled client matters of similar complexity in the past? 				
<ul style="list-style-type: none"> Whether the representation involves any special licenses or authorizations? 				
<ul style="list-style-type: none"> Whether you can analyze precedent, issue spot, evaluate evidence, and draft legal documents in the new matters? 				
<ul style="list-style-type: none"> Whether you are familiar with and can employ relevant technologies and modes of communication necessary for the representation? 				
<ul style="list-style-type: none"> Whether the new matters involve compliance with different rules, regulations, or procedures than those with which you have had prior experience? 				
If you do not have the skills-based competence to handle a new matter, do you assess whether you can:				
<ul style="list-style-type: none"> Timely acquire the skills necessary to handle the matter? 				
<ul style="list-style-type: none"> Limit the scope of your representation to work within your current skill set or within the reasonably expandable scope of your skill set? 				

<ul style="list-style-type: none"> Learn from, associate with, or seek mentoring/supervision from a lawyer with established skills in this field? 				
Before taking on new matters, do you ask whether you have the necessary resources (time, finances, staffing, infrastructure, outside advice, and willingness) available to prepare, adequately, and offer thorough representation?				
Does your assessment include: <u>Time</u> <ul style="list-style-type: none"> Whether you have the time to handle a potential new matter without neglecting existing professional or personal obligations? Conversely, whether other obligations impede providing adequate representation? 			<ul style="list-style-type: none"> Lawyers may not have in hand or have reasonable access to the documentation necessary to make appropriate factual assertions and legal arguments. Therefore, lawyers will need to devote the time to develop what is necessary to perform, adequately, the representation. Failure to spend time investigating the factual and legal bases for an action could result in an adverse finding that a matter is frivolous under Colo. RPC 3.1 or could expose a lawyer to sanctions under C.R.C.P. 11. Making representations without due diligence or expressing insufficiently qualified opinions may violate duties to third parties under the Rules of Professional Conduct and other sources of legal authority. Colo. RPC 3.1 (lawyers are required to “inform themselves about the facts of their clients’ cases and the applicable law”). C.R.C.P. 11(a) (the signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well-grounded in fact . . .) 	<p>Standing Comm. on Ethics & Prof'l Resp., Am. Bar Ass'n, Ethics Op. 06-441, Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere with Competent and Diligent Representation (2006).</p> <p><i>In re Nunnery</i>, 725 N.W. 2d 613 (Wis. 2007) (suspending lawyer for two months because he did not conduct a meaningful inquiry into the veracity of documents presented by his client).</p> <p><i>Omnicare v. Laborers</i>, 135 S.Ct. 1318 (2015) (the accuracy of “expressions of opinion [depends on] considering the foundation [an investor] would expect an issuer to have before making the statement”).</p> <p>Frank T. Lockwood, Reinventing Client Selection and Case Management, GP SOLO, July/Aug. 2014.</p>
<ul style="list-style-type: none"> Whether you have time to investigate and develop the factual aspects of the cases you undertake? 				
<ul style="list-style-type: none"> Whether you have time to investigate and develop all legal aspects of the cases? 				
<ul style="list-style-type: none"> Whether the new clients have needs or preferences that require additional time? If so, whether you have the time, patience, or resources to handle the cases properly? 				
<ul style="list-style-type: none"> Whether, if time is an issue, it would be prudent to refer the matters to a lawyer with the skill set and time to investigate and handle the representation? 				

Does your assessment include: <u>Financial Resources and Reserves</u> <ul style="list-style-type: none"> • Whether your fees will support developing both the factual bases and the legal aspects of the matters you undertake? 				Mark Bassingthwaighte, <i>Getting It Right with Client Selection</i> (ALPS Corp.), Aug. 26, 2014.
<ul style="list-style-type: none"> • Whether your business model allows you to assume the financial risk involved if problems arise in the representation? 				
<ul style="list-style-type: none"> • Whether your business model supports access to the professional advice of others who can assist you to understand the technical aspects of the matters you take on, be they attorneys, accountants, engineers, or other experts? 				
<ul style="list-style-type: none"> • Whether you have sufficient financial liquidity to support the fee structure or payment timing of the representation? 				
<ul style="list-style-type: none"> • Whether, if necessary, you can modify your fee structure so that you can provide adequate representation? 				
Does your assessment include: <u>Staffing</u> <ul style="list-style-type: none"> • Whether you have sufficient staff-hours available as well as competent staff to handle the new matters? 			<ul style="list-style-type: none"> • Lawyers with supervisory authority over non-lawyers must make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer. Colo. RPC 5.3(b). 	Mark Bassingthwaighte, <i>Getting It Right with Client Selection</i> (ALPS Corp.), Aug. 26, 2014.
<ul style="list-style-type: none"> • Whether staff has the knowledge and training to handle the cases? 			<ul style="list-style-type: none"> • Lawyers must take into account that non-lawyers do not have legal training and are not subject to professional discipline. Colo. RPC 5.3 cmt. 1. 	
<ul style="list-style-type: none"> • Whether those staff members have the skills to handle the cases? 				
<ul style="list-style-type: none"> • Whether, if your staff lacks competency to handle a case, you can: <ul style="list-style-type: none"> ○ Timely hire the necessary staff? ○ Timely train existing staff to ensure that they have adequate knowledge or skills to handle the matter? ○ Appropriately supervise the necessary staff? 				
Does your assessment include: <u>Infrastructure</u> <ul style="list-style-type: none"> • Whether you have access to research resources to answer legal questions presented by cases? 			<ul style="list-style-type: none"> • Colo. RPC 1.1 cmt. 8 (lawyers must keep abreast of “changes in communications and other relevant technologies”). 	Ellie Margolis, <i>Surfin’ Safari – Why Competent Lawyers Should Research on the Web</i> , 10 YALE J. L. & TECH. 82 (2007) (noting that rules of professional conduct, read together, “create an ethical
<ul style="list-style-type: none"> • Whether you have systems in place to handle the electronic data involved in the matters you accept? 				

<ul style="list-style-type: none"> Whether you could contract with or retain other lawyers, if necessary, who have the infrastructure to handle matters for which you do not have adequate infrastructure? 				obligation to perform sufficient research to effectively advocate on behalf of a client”).
Does your assessment include: <u>Advice</u> <ul style="list-style-type: none"> Whether you have a relationship with at least one other lawyer whom you could consult for advice or assistance as to substance, procedure, or questions of judgment if needed? 			<ul style="list-style-type: none"> Without a sounding board or someone who can offer a different perspective, lawyers can fall prey to bad judgment and echo-chamber thinking. 	
<ul style="list-style-type: none"> Whether you receive regular, honest, and relevant feedback on your work product? 				
Does your assessment include: <u>Willingness</u> <ul style="list-style-type: none"> Whether the cases are sufficiently interesting to develop the factual bases and legal theories? 				
<ul style="list-style-type: none"> Whether you are constrained in providing competent representation by your personal circumstances (including medical issues) or your personal feelings about the client or the matter? 				
<ul style="list-style-type: none"> Whether the representation create any peer pressure or image issues with which you are not able to reasonably cope? 				
<ul style="list-style-type: none"> Whether, if you lack the willingness in one way or the other to take a case, it would be prudent to refer the matter to a lawyer with the requisite skill set and interest to investigate and handle the matter? 				
<ul style="list-style-type: none"> Whether, if you lack the willingness to take a case, what form and substance should the communication(s) declining the representation take? 				

SELF-ASSESSMENT #2 — COMMUNICATING IN AN EFFECTIVE, TIMELY, PROFESSIONAL MANNER

Communication problems are the second most common type of client complaint seen in the Office of Attorney Regulation Counsel. And when you are the subject of a complaint, your practice suffers. Communicating clearly with your client contributes to a healthy, thriving law practice. Communicating clearly with a client includes ensuring that you receive client communications and engage in mandatory duties of communication.

Colo. RPC 1.4 addresses a lawyer’s duties to communicate with the client. The rule is mandatory, not permissive. Lawyers must communicate with clients about certain things related to the representation and do so in a timely manner. Notably, Colo. RPC 1.4(a) requires the communication of information concerning fees charged, costs, expenses, and disbursements to the client. Other procedures not mandated by the Rules can nonetheless help prevent client misunderstandings that often lead to ethics complaints. Creating written policies establishing minimum communication standards expected of you, your employees, and your clients goes a long way toward this goal.

Questionnaire	Yes	No	N/A	Ethical Considerations	Other Resources
Communication Regarding the Scope of the Representation					
What systems do you have or steps do you take to ensure that you and your clients share the same understanding of the terms and scope of the engagement letter and fee agreement?				<ul style="list-style-type: none"> It is essential that both the client and the attorney understand the terms of the representation as well as fees to be charged for services. This reduces disputes as to what services were or were not contemplated. 	Charles Mortimer, <i>Know When to Hold ‘Em, Know When to Fold ‘Em</i> , OFF. OF ATT’Y REG. COUNSEL (2014).
Client Communication Policies					
Do you have a written policy regarding communication with clients? <ul style="list-style-type: none"> <i>Even if your practice does not have a written communication policy, you should evaluate whether you address with clients the communication issues raised in the five following questions. You may want to consider developing a policy that addresses these issues.</i> 				<ul style="list-style-type: none"> Colo. RPC 1.4 cmt. 4: “regular communication . . . will minimize the occasions on which a client will need to request information” Communicating clearly with your client contributes to a healthy, thriving law practice. A communication policy promotes regular and timely client contact. You may want to consider providing clients with a copy of your policy to avoid confusion over communication expectations and timeframes. 	OFF. OF ATT’Y REG. COUNS., COLO. SUP. CT., HIRING AND WORKING WITH AN ATTORNEY . CBA Ethics Op. 90, Preservation of Client Confidences in View of Modern Communication Technology Mark Bassingthwaight, Manage Client Relationships in Addition to Client Matters (ALPS Corp.), 2016.

					Mark Bassingthwaighte, <i>Communication – It’s All in The Details</i> (ALPS Corp.), 2015.
<ul style="list-style-type: none"> Does the policy include addressing with clients their appropriate and preferred methods of communication such as phone, mail, email, and text? 				<ul style="list-style-type: none"> Colo. RPC 1.4 cmt. 4: “[a] lawyer’s regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation.” 	Dean Dietrich, <i>Handling Clients’ Text Messages</i> , WIS. LAW., April 2016.
<ul style="list-style-type: none"> Does the policy address the expected response time for client-initiated phone calls, emails, or texts, and is that response time communicated to clients? 				<ul style="list-style-type: none"> Colo. RPC 1.4(a)(3) 	Dean Dietrich, <i>Ethics: Lawyers Owe Clients ‘Reasonable’ Communication</i> , WIS. LAW., June 2011.
<ul style="list-style-type: none"> Does the policy establish when changes/status updates in cases will be relayed to clients and have you communicated this to your clients? 				<ul style="list-style-type: none"> Colo. RPC 1.4(a)(1) 	
<ul style="list-style-type: none"> Does the policy address the expected frequency of lawyer-initiated updates on the case when there is no activity? 				<ul style="list-style-type: none"> Colo. RPC 1.4 cmt. 6. 	
<ul style="list-style-type: none"> Does the policy ensure that clients receive copies of important correspondence sent and received? 				<ul style="list-style-type: none"> Colo. RPC 1.4. 	Peter Norman, <i>BCC’ing Your Clients: Not Just a Bad Idea, But Unethical?</i> , Law360.com, June 6, 2016.
Do you have a process to ensure continued compliance with client communication expectations or any written client communication policy by your associates and staff?				<ul style="list-style-type: none"> Staff compliance with client communication policies promotes your compliance with Colo. RPC 1.4. If you have a policy, consider whether you: (1) require staff to read and sign the policy, (2) regularly review it with staff, (3) assess compliance as part of performance reviews. 	

Do you assess your own compliance with client communications expectations set out for your practice or in a written communication policy?				<ul style="list-style-type: none"> You should assess your compliance with the policy to meet your professional obligations. 	
Do you have a policy or system in place that confirms in writing any text or phone-based client communication?				<ul style="list-style-type: none"> The use of texting to communicate with clients has become more common but creates its own set of issues. For example, some mobile phone companies retain texts for only a short period of time. It is important to maintain a record of text communications independent of relying upon the ability to subpoena them. 	
Do you archive email conversations with clients and ensure they are copied to the file?				<ul style="list-style-type: none"> Archiving emails documents client instructions to the lawyer and lawyer instructions to the client. It also provides evidence of case updates sent to the client. See Colo. RPC 1.4. 	
Do you have clients confirm their instructions to you in writing?				<ul style="list-style-type: none"> Confirming instructions in writing reduces confusion over whether the client authorized a course of action. Colo. RPC 1.2 & 1.4. 	Mark Bassingthwaighe, <i>If You Failed to Document It, It Never Happened</i> (ALPS Corp.), Jan. 18, 2017.
General Considerations for Communications with Clients					
Do you communicate in a manner that is respectful of clients and their needs?				<ul style="list-style-type: none"> Colo. RPC 1.6 Colo. RPC 8.4(g) 	
Do you address language barriers, if any, in agreeing to represent a client?					
Do clients need to designate someone else with whom you can communicate on their behalf about the matter?				<ul style="list-style-type: none"> If the client grants permission for you to communicate with someone else on his/her behalf, you should discuss any limitations on 	LAWYERS' PROFESSIONAL LIABILITY IN COLORADO, 2016 ED. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 2.7.

				those communications, potential confidentiality issues that may arise, and confirm in writing.	
<p>Do you have a standard engagement letter that communicates:</p> <ul style="list-style-type: none"> • Expected fees? • Billing policies? • Services covered? • How and when the relationship will be terminated? • A disclaimer that no specific outcome is guaranteed? 				<ul style="list-style-type: none"> • Colo. RPC 1.5(b) requires attorneys to provide clients with a written “basis or rate of the fee and expenses” within a reasonable time of beginning the representation. 	<p>LAWYERS’ PROFESSIONAL LIABILITY IN COLORADO, 2016 ED. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 2.9</p> <p>ALPS CORP., SAMPLE ENGAGEMENT LETTERS WITH OPTIONAL NOTICES.</p> <p>CNA PROF’L COUNS., LAWYERS’ TOOLKIT 4.0: A GUIDE TO MANAGING THE ATT’Y-CLIENT RELATIONSHIP, CNA (2018) (sample engagement letters and engagement clauses).</p>
Do you have a termination of engagement letter?				<ul style="list-style-type: none"> • A closing letter prevents confusion as to whether the attorney still represents the client if there is subsequent litigation. 	<p>LAWYERS’ PROFESSIONAL LIABILITY IN COLORADO, 2016 ED. (Michael T. Mihm, ed., CLE in Colo., Inc.), Ex. 2A (Sample Closing Letter).</p> <p>ALPS CORP., SAMPLE CLOSING LETTERS</p> <p>CNA PROF’L COUNS., LAWYERS’ TOOLKIT 4.0: A GUIDE TO MANAGING THE ATT’Y-CLIENT RELATIONSHIP, CNA (2018) (sample closing letter).</p>
If a client refuses to follow your advice, do you document your recommendations that the client refused to follow, the reason(s) you made the recommendations, and your explanation to the client of the risks of not following the advice?				<ul style="list-style-type: none"> • Colo. RPC 1.4(b) 	<p>Mark Bassingthwaighe, If You Failed to Document It, It Never Happened (ALPS Corp.), Jan. 18, 2017.</p>

Do you provide clients with regular cost updates at a frequency and in a form that suits their needs?					
Are clients informed of what is expected of them during the course of the representation?				<ul style="list-style-type: none"> • Clients need to understand their obligations in the attorney-client relationship. This includes truthful information, timely communication and responses to lawyer contacts, and updated contact information. 	OFFICE OF ATT'Y REG. COUNSEL, HIRING AND WORKING WITH AN ATTORNEY
Communication with Prospective Clients					
Are your advertisements, including your website, free of false or misleading statements?				<ul style="list-style-type: none"> • Statements about you/the firm must be independently verifiable. See Colo. RPC 7.1 & 7.2 	BETTER BUSINESS BUREAU, CODE OF ADVERTISING
Do your advertisements contain any statements that are likely to create an unjustified expectation of results?				<ul style="list-style-type: none"> • Colo. RPC 7.1 & 7.2 	BETTER BUSINESS BUREAU, CODE OF ADVERTISING
Client Feedback					
Do you or your firm conduct client surveys, interview clients, or otherwise seek feedback to assess client satisfaction with the representation?				<ul style="list-style-type: none"> • Client surveys and interviews allow you to identify what is working well for clients and what is not. They may also reveal areas where your practice can improve compliance with professional obligations. 	Best Practices: Solicit and Respond to Client Feedback , FindLaw.com, Feb. 9, 2017. Lynn Luong, Law Firm Client Relations: How to Get Client Feedback That You Can Use , AboveTheLaw.com, Nov. 9, 2016.
Do you or your firm have policies and procedures in place for addressing client complaints?				<ul style="list-style-type: none"> • Addressing complaints improves attorney-client relations and may avoid professional responsibility or liability complaints. 	

SELF-ASSESSMENT #3 — ENSURING THAT CONFIDENTIALITY REQUIREMENTS ARE MET

Colo. RPC 1.6 addresses confidentiality of client information and when disclosure is prohibited or permitted. Confidentiality applies not only to matters communicated in confidence by the client, but to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules. [Cmt. 3 to Rule 1.6]. Confidentiality survives the conclusion of the attorney-client relationship.

Many issues regarding disclosure of confidential information are preventable; thus, written policies to educate lawyers and staff, and review of such policies through the following form, will aid in preventing such disclosures. If you do not have a written policy, you still must consider whether you are taking appropriate steps to protect confidences. Technology presents additional issues, which are not always as obvious, and therefore, while preventable, must first be identified as an area of concern.

Questionnaire	Yes	No	N/A	Ethical Considerations	Other Resources
<u>CONFIDENTIALITY POLICY FOR EMPLOYEES</u>					
Do you have written policies for lawyers and support staff explaining duties to preserve client confidences? If not, you may want to develop written policies that include the criteria discussed below. If you do have policies, you may nonetheless wish to consider the following criteria to build practices that protect client confidences.				<ul style="list-style-type: none"> • Misunderstanding the breadth of Colo. RPC 1.6. • Inadvertent disclosure such as including the wrong parties in a confidential client email (<i>see also</i> Colo. RPC 4.4). • Perils of utilizing social media to discuss work. • Discussing “hypotheticals” with another lawyer where confidential information is provided (<i>see Colo. RPC 1.6, cmt. 4</i>). 	<p>Grace Giesel, <i>The Duty of Confidentiality and the Attorney-Client Privilege: Sorting Out the Concepts</i>, KY. BENCH & BAR MAG., Jan. 2015, republished by Lawyerist.com, March 19, 2015.</p> <p>Allison Shields, <i>Prevent Confidentiality Leaks in Your Firm</i>, Lawyerist.com, March 5, 2010.</p>
<ul style="list-style-type: none"> • Do you present your policies regarding client confidences at new employee orientation? Do you have new employees sign that they have reviewed these policies? 				<ul style="list-style-type: none"> • Posting responses to online reviews of the lawyer’s services. • Inadvertently providing other client files or client information when returning client files. • Improperly disposing of or storing client information. • Posting client names and case results on law firm website without client authorization. 	
<ul style="list-style-type: none"> • Do such policies address when to obtain client consent for disclosure? 				<ul style="list-style-type: none"> • Colo. RPC 1.6(a) • Lawyers may want to memorialize a client’s consent to disclosure so that both parties are clear as to the scope of authorization and when it was made. 	Colo. RPC 1.6, cmt. 2
<ul style="list-style-type: none"> • Do such policies include advising the client, if you work in a law firm, that you may disclose 				If you work in a law firm, you may wish to consult other attorneys about a client matter. You should	Colo. RPC 1.6, cmt. 5

information about the representation to other attorneys and staff at the firm?				inform the client of your intention to consult other attorneys in the firm and obtain consent to do so.	
<ul style="list-style-type: none"> Do such policies address office structure, such as public access to and visibility of client files, computer monitors, and files? 				Colo. RPC 1.6(c)	Colo. RPC 1.6, cmt. 18 Mark Bassingthwaite, Why Be Concerned About Law Firm Housekeeping Apathy? (ALPS Corp.), May 13, 2014.
<ul style="list-style-type: none"> Do such policies address where confidential discussions within the office may occur? 				Colo. RPC 1.6(c)	
<ul style="list-style-type: none"> Do such policies address the security of the law office, such as who has keys to the office, who is responsible for locking the office at night, and who has off-hours access? 				Colo. RPC 1.6(c)	
<ul style="list-style-type: none"> Do such policies address file storage either onsite or offsite? 				Colo. RPC 1.6(c)	
<ul style="list-style-type: none"> Do such policies address file disposal, such as using secure recycle or destruction of confidential materials? 				Colo. RPC 1.6(c)	
<ul style="list-style-type: none"> Do your policies address avoiding disclosure of confidential information in a motion to withdraw? 				<ul style="list-style-type: none"> A motion to withdraw that discusses the reason for the attorney's request to withdraw may reveal confidential information. It should be carefully drafted. Colo. RPC 1.16. 	David Hudson, When Withdrawing Over a Client's Failure to Pay, What Do You Say to Protect Confidentiality? , ABA J., Dec. 19, 2016.
<u>INADVERTENT DISCLOSURE</u>					
Have you considered implementing a policy designed to avoid inadvertent disclosures?				Colo. RPC 1.6, cmt. 18. "The unauthorized access to, or inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation . . . if the lawyer has made reasonable efforts to prevent the access or disclosure."	
Do you have a policy regarding what actions to take following notification of an inadvertent disclosure? Does this include a policy to notify and explain such disclosure to the client?				Colo. RPC 1.6(c)	CBA Ethics Op. 108: Inadvertent Disclosure of Privileged or Confidential Documents

					<p>Standing Comm. on Ethics & Prof'l Resp., Am. Bar Ass'n, Ethics Op. 06-440: Unsolicited Receipt of Privileged or Confidential Materials (2006).</p> <p>See also Colo. RPC 4.4.</p>
Does the practitioner/firm have written policies regarding technology and avoiding inadvertent disclosure of confidential information?				<ul style="list-style-type: none"> • Colo. RPC 1.6(c) • To promote compliance with the Rules of Professional Conduct, you should review these policies with staff. 	CNA, SMART CYBER PRACTICES IN LAW FIRMS (2016).
<u>OUTSIDE VENDORS</u>					
Do you have a confidentiality policy for vendors, such as cleaning staff, contract staff and computer maintenance vendors?				Outside vendors could come into contact with confidential information as part of their services. Attorneys should consider confidentiality agreements with these vendors.	
<u>OFFICE SHARE</u>					
If you share space with another practitioner/firm, are there policies in place to segregate files and other confidential client information?				<ul style="list-style-type: none"> • Colo. RPC 1.6(a): “A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent” • Colo. RPC 1.6, cmt. 18. 	<p>CBA Ethics Op. 89, Office Sharing and Virtual Offices (2018 rev.).</p> <p>Kathryn Thompson, Keeping Your Office Sharing Arrangements with Other Lawyers Squeaky Clean Under the Ethics Rules, ABA CTR. FOR PROF'L RESP., May 2007.</p>
<u>SOCIAL MEDIA</u>					
Do you or your firm have a social media presence?					Nick Graf, Social Media Risks for Lawyers , CNA, Sept. 8, 2016.
If so, have you or your firm designated a person to update social media?					
Have you designated a lawyer to review and approve content and updates to ensure no confidential information is posted?				Colo. RPC 1.6	<p>Standing Comm. on Ethics & Prof'l Resp., Am. Bar Ass'n, Ethics Op. 480: Confidentiality Obligations for Lawyer Blogging and Other Commentary (2018).</p>
Do you or your firm have written policies regarding employee use of social media? If so, do				Colo. RPC 1.6	

such policies address what information can be posted as it relates to the firm?					
<u>EMAIL</u>				Colo. RPC 1.6, cmt. 19 : “When transmitting a communication that includes information related to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients.”	
If you use email to communicate with clients, do you advise clients regarding the potential risks of email communication?					<p>Standing Comm. on Ethics & Prof'l Resp., Am. Bar Ass'n, Formal Op. 477R: <i>Securing Communication of Protected Client Information</i> (2017).</p>
Have you considered whether encryption should be used to protect confidential information sent via email?					<p>Standing Comm. on Ethics & Prof'l Resp., Am. Bar Ass'n, Ethics Op. 06-440: <i>Unsolicited Receipt of Privileged or Confidential Materials</i> (2006).</p> <p>Robert Barrer, Ethical Implications and Best Practices for Use of Email, N. Y. LEGAL ETHICS REPORTER, Mar. 1, 2015.</p> <p>Judith Rosenblum, An Ethical Practice In Today's Electronic World, THE DOCKET, June 23, 2014.</p> <p>Holly Urban, Prioritizing Cybersecurity to Protect Client Information from Data Breaches, L. TECH. TODAY, Jan. 3, 2019.</p>

SELF-ASSESSMENT #4 — AVOIDING CONFLICTS OF INTEREST

Why should you care about conflicts? Consider:

- *Fee forfeiture
- *Malpractice claims
- *Disqualification from litigation
- *Discipline

Questionnaire	Yes	No	N/A	Ethical Implications	Other Resources
Do you have a process by which you identify conflicts?				Colo. RPC 1.7 cmt. 2	
Have you clearly identified who is, and who is not, the client – particularly for clients who are business entities?				Colo. RPC 1.7 & cmts. 2, 27, 34; Colo. RPC 1.13(a) & cmts. 1-2, 10-11	CBA Formal Ethics Op. 120
Do you have a system for detecting conflicts? Does it include:				Colo. RPC 1.7 cmt. 3; Colo. RPC 5.1(a) & cmt. 2	Mark Bassingthwaite, Watch Out for These Common Conflict of Interest Traps (ALPS Corp.), Mar. 3, 2015.
• Names of clients & matters					
• Names of adverse parties					
• Names of related parties (witnesses, experts, insurance carriers, family members, co-counsel, opposing counsel, related entities, owners of business entities)					Josh Camson, Making a List: The Conflicts Check , Lawyerist.com, Oct. 8, 2013.
• Names of potential/rejected clients & matters					
• Dates matters were active/closed/rejected					
• Names of timekeepers who worked on particular matters					
Does an attorney (as opposed to a staff person) review each new matter to identify conflicts?				A thorough conflict detection system includes both attorney and staff review of new matters.	
Is the conflicts check updated regularly as new parties are identified and new names are added to the system?				Colo. RPC 1.7 cmts. 4, 5	

Does the firm use engagement letters and disengagement letters appropriately?				Engagement and disengagement letters clarify whether an attorney-client relationship exists and can help identify potential conflicts of interest with current and former clients.	Mark Bassingthwaighe, Watch Out for These Common Conflict of Interest Traps (ALPS Corp.), Mar. 3, 2015. Mark Bassingthwaighe, Don't Kiss Off the Importance of Closure Letters (ALPS Corp.), Jan. 26, 2015.
Are you engaged in any of the following common conflict situations?					
<ul style="list-style-type: none"> Being adverse to a current client in any matter, however unrelated 				Colo. RPC 1.7(a)(1) & cmt. 6-7	LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.5.1.
<ul style="list-style-type: none"> Being adverse to a former client in a substantially related matter 				Colo. RPC 1.9(a) & cmts. 1-3	Lawyers' Professional Liability in Colo., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.7.
<ul style="list-style-type: none"> Representing multiple clients in a single matter 				Colo. RPC 1.7(a)(2) & cmts. 23, 27-33; Colo. RPC 1.8(g) & cmt. 13; Colo. RPC 1.13(g) & cmt. 12	CBA Formal Ethics Ops. 58 , 68 Mark Bassingthwaighe, You Don't Get It Both Ways, the Downside of Joint Representation , VA. LAW., Oct. 2015.
<ul style="list-style-type: none"> Conflicts resulting from dealings with prospective clients that do not mature into engagements 				Colo. RPC 1.18	
<ul style="list-style-type: none"> Personal interest conflicts, including but not limited to: business transactions with clients; gifts from clients; providing financial assistance to clients; sexual relationships with clients? 				Colo. RPC 1.7(a)(2) & cmts. 8, 10; Colo. RPC 1.8 and all related comments	CBA Formal Ethics Ops. 82 , 110
Do any of your cases involve payment of fees by a third party, including insurance carriers?				Colo. RPC 1.7(a)(2) & cmt. 13; Colo. RPC 1.8(f) & cmts. 11-12	CBA Formal Ethics Ops. 43 , 91 , 107 , 129
Are you working on any cases in which you might be called as a witness?				Colo. RPC 3.7 & cmts.	
Are you engaged in any matter in which you might have a positional conflict?				Colo. RPC 1.7 cmt. 24	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.9.
Have you considered conflicts that might arise from your use of contract attorneys, outsourcing, or office-sharing?				Colo. RPC 1.9(b) & cmts. 4-9; Colo. RPC 1.10(b), (e) & cmts. 4-5	CBA Formal Ethics Ops. 13 , 89 , 105 , 116 , 121

Are you engaged in any representation in which conflicts are imputed to you?				Colo. RPC 1.10(a) & cmts. 1-2; see also Colo. RPC 1.8(k) & cmt. 20	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.11.
If you have a matter involving a conflict, or potential conflict, is the conflict consentable?				Colo. RPC 1.7, cmts. 2, 14-15; Colo. RPC 1.9(a) & cmt. 9; Colo. RPC 1.10(c) & cmt. 6	
Is the conflict a type that is absolutely non-consentable:					
<ul style="list-style-type: none"> Representing two clients on opposing sides in a litigation matter 				Colo. RPC 1.7(b)(3) & cmts. 17, 23	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.10.3.
<ul style="list-style-type: none"> Representations prohibited by law 				Colo. RPC 1.7(b)(2) & cmt. 16	
<ul style="list-style-type: none"> Ordinarily, representing criminal co-defendants 				Colo. RPC 1.7 cmt. 23	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.5.4.
If not, in your judgment:					
<ul style="list-style-type: none"> Do you “reasonably believe[] that [you] will be able to provide competent and diligent representation” despite the conflict? [Colo. RPC 1.7(b)(1)] 				Colo. RPC 1.7(b)(1) & cmt. 15	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.12.
<ul style="list-style-type: none"> Have you given serious consideration to what could go wrong due to the conflict? 					
<ul style="list-style-type: none"> Have you resisted the natural desire to accept new work, thus, the natural inclination to minimize conflicts? 					
If you have a conflict, but it is consentable, have you obtained valid consent?				Colo. RPC 1.7 cmt. 2	
Have you obtained “informed” consent, in which the prospective client has agreed to the conflict “after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct”?				Colo. RPC 1.7(b)(4) & cmt. 18 and 19; Colo. RPC 1.9(a); Colo. RPC 1.10(e); Colo. RPC 1.7 cmts. 22, 30-31	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), §§ 4.10.1 – 4.10.4.
<ul style="list-style-type: none"> Does the prospective client have the capacity to consent? 					
<ul style="list-style-type: none"> Were you able to provide adequate information to obtain an informed consent while complying with Colo. RPC 1.6? 				Colo. RPC 1.7 cmts. 18 and 19	

<ul style="list-style-type: none"> In dual representation, have you explained the effect of the consent on the attorney-client privilege and confidentiality of client information? 				Colo. RPC 1.7 cmts. 29-33	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 4.5.3.
<ul style="list-style-type: none"> Was the consent "confirmed in writing"? 				Colo. RPC 1.7(b)(4) & cmt. 20	
If you have a conflict, but it is consentable, and you have obtained consent, do you need to erect a confidentiality wall?				Colo. RPC 1.10(e); Colo. RPC 1.11(b)	
Are you continuing to assess potential conflicts as the representation progresses?					
Are there new circumstances, including: a change in the fee structure; your acquisition of an interest in the client's property; new parties, witnesses, counsel, etc.; or divergence of interests in multi-party representation, that create a new conflict that did not exist at the start?				Colo. RPC 1.7 cmts. 4, 5	
<ul style="list-style-type: none"> Is the new conflict consentable? If it is consentable, have you obtained informed consent? 				If the new conflict is consentable, you still need to consider informed consent. If it is non-consentable, you should take steps to withdraw.	
If the new conflict is not consentable or consent cannot be obtained:					
<ul style="list-style-type: none"> Have you taken steps to withdraw? 				Colo. RPC 1.7 cmt. 4; Colo. RPC 1.16(a)(1) & cmt. [2]	
<ul style="list-style-type: none"> In a litigation matter, have you obtained court approval? 				Colo. RPC 1.16(c) & cmt. 3	

SELF-ASSESSMENT #5 — FILE MANAGEMENT, SECURITY, AND RETENTION

How you organize, manage, and secure client files directly impacts your efficiency and ability to get results for a client. This matters whether it is preparing for trial or timely responding to a client inquiry. Moreover, files often contain confidential client information, critical records, and client-lawyer communications about the objectives of the representation. You need to consider best practices for file management, security, and retention as part of a proactive assessment of your firm’s ethical infrastructure. This is particularly so in today’s digital age where client files are stored and portions shared and transmitted electronically.

Questionnaire	Yes	No	N/A	Ethical Considerations	Other Resources
Client Files					
Do you have a standardized filing system for all client files?				“A lawyer’s management of her records must protect the client’s interests . . . must protect the client’s confidences and secrets, and must be governed by the lawyer’s professional judgment” George C. Cunningham & John C. Montana, <i>The Lawyer’s Guide to Records Management and Retention</i> , AM. BAR ASS’N (2006) at 39	<i>Top 5 Reasons a Document Management Program Is Critical to Law Practice</i> , FindLaw.com, Feb. 10, 2017.
Do you have a file-naming convention for paper and electronic files?				“In the absence of a well-defined and well-executed structure [for file naming], poorly named files . . . are effectively lost.” Cunningham and Montana, <i>supra</i> at 172.	<i>Best Practices for File Naming Conventions in Law Practice</i> , Mass. Law Office Mgmt. Assistance Program, Aug. 13, 2019. Sam Glover, <i>How to Organize Paperless Client Files</i> , Lawyerist.com, Nov. 25, 2013.
Do you have a policy to ensure electronic and paper copies of files are consistent?				Organized file management comports with an attorney’s duty to safeguard client property.	
Do you have a policy (or is it your practice) to ensure all email or text communication with your client is copied to your paper/electronic files?				Copying communications to the file demonstrates your adherence to Colo. RPC Rule 1.4 in communicating with your clients.	Beverly Michaelis, <i>Documenting Email as Part of a Client’s File, Part I</i> , OR. STATE BAR BULLETIN, April 2013.

Do you have a policy for handling originals received from clients?				A log should kept that complies with Colo. RPC 1.15A&D and 1.16A whenever an attorney receives property from a client.	
Do you log or document receipt of original documents from a client?				Documenting receipt of original documents is consistent with an attorney's fiduciary obligations under Colo. RPC 1.15A, D & 1.16A.	
Do you scan and return originals or retain them?				If you retain originals, you should consider a policy for their eventual return to the client. Colo. RPC 1.15A & D; and Rule 1.16A.	
Do you have a file-retention policy that complies with Colo. RPC 1.16A?				Written policies and fee agreements should contain terms that comply with the notice requirements of Colo. RPC 1.16A.	See Comment to Colo. RPC 1.16A
Does your policy also account for your obligations under C.R.C.P. 121, § 1-26(7)?				Attorneys must maintain a signed original for 2 years for all E-filed documents per C.R.C.P. 121, § 1-26(7).	
Maintaining File Security					
Do you have a system to track or limit access to files by members of your staff?				Tracking or limiting access protects client confidentiality.	Christopher Anderson & Dan Barahona, <i>When "Secure Enough" Isn't Enough: A Law Firm Guide to Protecting the Confidentiality of Client Files</i> (LexisNexis), 2013, at p. 13.
Is your office secure? <ul style="list-style-type: none"> ○ Are your paper files kept in a secured cabinet or secured within your office? ○ Are they protected from flood/fire/vermin? 					

Does your firm have adequate data back-up procedures for all firm and all client data?				Data back-up is essential to avoiding losing a file or your work product in the event of a cyber-security breach, fires, flood, etc.	
Do you have encryption policies in place to address transmission via email of medical records, financial records, or other highly confidential materials?				<ul style="list-style-type: none"> • Colo. RPC 1.6(c) • Colo. RPC 1.6, cmt. 19 	<p>Standing Comm. on Ethics & Prof'l Resp., Am. Bar Ass'n, Ethics Op. 11-459 Duty to Protect the Confidentiality of E-mail Communications with One's Client (2011).</p> <p>Holly Urban, Prioritizing Cybersecurity to Protect Client Information from Data Breaches, L. TECH. TODAY, Jan. 3, 2019.</p>
Do you have the time and expertise to oversee technology, including security, in order to properly maintain files?				<ul style="list-style-type: none"> • "It is the responsibility of the lawyer delivering legal services online—not the hosting company, the software provider . . . or any other entity—to ensure that . . . the practice complies with the high ethical standards required by the lawyer's law license." Stephanie L. Kimbro, <i>Virtual Law Practice</i>, AM. BAR ASS'N, 2010, p. 133. • If you do not have a designated technology compliance officer, you may consider hiring someone to assist with this task. 	<p>Kendra Albert, Computer Security Tools & Concepts for Lawyers, 20 GREEN BAG 2D 127 (2017).</p> <p>Mary Ellen Egan, Cyberthreats 101: The Biggest Computer Crime Risks Lawyers Face, ABA J., Mar. 1, 2018.</p>
Do you have a training system in place for employees and staff with respect to file systems, computer usage, email, and internet usage?				<ul style="list-style-type: none"> • Staff training should emphasize that proper file management is critical to protecting client confidences and property. 	
Network / Hardware Security					
Do you have adequate physical security protection for the computer hardware used in the operation of your firm's network?				<ul style="list-style-type: none"> • Secure hardware reduces the chance that confidential information stored or accessed electronically will be compromised. • Colo. RPC 1.6(c) 	CBA Ethics Op. 119 Disclosure, Review and Use of Metadata

					Standing Comm. On Ethics & Prof'l Resp., Am. Bar Ass'n, Ethics Op. 06-442 Review and Use of Metadata (2006).
Do you enforce software updates, including updating patches and antivirus software?				Client information and files stored electronically receive better protection from viruses and potential cybersecurity breaches through regular software updates.	Holly Urban, Prioritizing Cybersecurity to Protect Client Information from Data Breaches , L. TECH. TODAY, Jan. 3, 2019.
Do you utilize a wireless computer network or “open” or “wi-fi” networks not controlled by your firm? If so, have you taken adequate steps to protect the confidentiality of client information through those networks?				Client information that you transmit or access through open networks could be vulnerable to inadvertent disclosure.	
Do you make sure your own firm internet is secure through the use of an encrypted in-house wi-fi and encrypted guest wi-fi network?				Allowing guests to freely use your internal wi-fi network could compromise client confidences.	
Do you use smart phones or other portable digital devices in your practice? If so, are those devices adequately configured to protect from a loss or breach the confidentiality of information stored on or accessible through the phone or other digital device (such as USB drives, portable storage devices)?				Colo. RPC 1.6(c)	Pem Guerry, Why Remote Security Is a Must , L. TECH. TODAY, Jan. 12, 2017.
Do you or your firm conduct periodic cybersecurity testing?				Periodic testing, such as conducting vulnerability assessments, identifies cybersecurity procedures that need improvement.	Tom Kulik, Cybersecurity, Confidentiality, and Your Ethical Obligations to Your Clients (Part II) , ABOVE THE LAW, Nov. 26, 2018.

					Sherri Davidoff, <i>Law Firm Cybersecurity Audits: Getting to Good</i> , L. PRACTICE TODAY, Feb. 12, 2016.
Is your network configured to log data in the event of a cyber-security breach?					<p>Standing Comm. On Ethics & Prof'l Resp., Am. Bar Ass'n, <i>Ethics Op. 483 Lawyers' Obligations After an Electronic Data Breach or Cyberattack</i> (2018).</p> <p>Ed Tittel & Earl Follis, <i>How Better Log Monitoring Can Prevent Data Breaches</i>, CIO.com, Feb. 24, 2015.</p>
Cloud Services					
If you use cloud services, where do the cloud servers reside? In the U.S., or elsewhere? If elsewhere, have you considered how the laws of that jurisdiction impact confidentiality?					<p>Jason Tashea, <i>Lawyers Have an Ethical Duty to Safeguard Confidential Information in the Cloud</i>, ABA J., April 2018.</p> <p>Sharon Nelson & John Simek, <i>Selecting a Law Firm Cloud Provider</i>, MICH. BAR J., Mar. 2014.</p>
Does the contract with the cloud provider address confidentiality of the information? Does it address whether the information will remain confidential should the contract end?					
Does your cloud service have regular and adequate data backup policies?					
Is data in the cloud encrypted and do you and your firm have sole control of the encryption key?					Heidi Alexander, <i>How to Vet Cloud Technology Providers</i> , MASS. L. OFF. MGMT. PROGRAM, 2018.

					Linda Musthaler, <i>Encrypted Data In the Cloud? Be Sure to Control Your Own Keys</i> , NETWORK WORLD, Sept. 5, 2014.
Do you advise clients of the risk that client files stored in the cloud could be hacked and do you obtain client consent to cloud file storage?					Judith Rosenblum, <i>Ethical Dilemmas or A No Good, Terrible, Bad Day</i> , THE DOCKET, Oct. 26, 2014.
Disaster Plan / Continuity of Operations					
Do you have a disaster recovery plan in place for paper files and electronic files?					Standing Comm. On Ethics & Prof'l Resp., Am. Bar Ass'n, <i>Ethics Op. 482 Ethical Obligations Related to Disasters</i> (2018).
Do you or your firm have a continuity of operations plan so that the firm may continue to operate in the event of a natural disaster or security breach?				A natural disaster or technological breach presents multi-faceted ethical issues related to confidentiality and diligence.	<i>SURVIVING A DISASTER: A LAWYER'S GUIDE TO DISASTER PLANNING</i> , ABA SPECIAL COMM. ON DISASTER RESPONSE AND PREPAREDNESS, AUG. 2011.

SELF-ASSESSMENT #6 — MANAGING THE LAW FIRM/LEGAL ENTITY AND STAFF APPROPRIATELY

Responsible office management is indispensable to competent, ethical representation. It also pays dividends in the form of client satisfaction and repeat business and referrals. This self-assessment examines office and staff management procedures to help attorneys build an ethical infrastructure.

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
<u>Firm Structure</u>					
<u>Sole Practitioner</u>					
<ul style="list-style-type: none"> Do you practice as a sole proprietor or through an entity (e.g., a professional corporation or a single-member professional limited liability company)? 				<ul style="list-style-type: none"> Managing risk starts with the law firm's ownership. You as the sole proprietor are the one who will benefit most from anticipating problems and reducing mistakes. It is up to the owner to shape the firm's culture in ways that promote the firm's long term profitability. It is consistent with an attorney's fiduciary responsibilities to obtain insurance coverage up to the full amount of the possible harm, not including the cost of defense. The limitations to liability provided by C.R.C.P. 265(a)(2) and 265(a)(3), if the firm has professional liability insurance. 	C.R.C.P. 265(a) and (e) (describing how a licensed attorney can practice law through a professional company).
<ul style="list-style-type: none"> Have you considered the advantages that practicing through an entity can provide, particularly with regard to liability? 					Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), §6.2 (discussing available forms of organization for the practice of law).
<u>Firm Structure</u>					
<u>Small Firm (2-5 attorneys)</u>					
<ul style="list-style-type: none"> Is the structure of the firm memorialized in a written agreement which forms and governs the law firm, e.g., partnership agreement, corporate bylaws, articles of organization? 				<ul style="list-style-type: none"> Good law office management – which includes managing risk – results in money for the firm. The partners, shareholders, or members are the ones who will benefit most from anticipating problems and reducing mistakes. It is up to the owners to shape the firm's culture in ways that promote long-term profitability. The limitations to liability provided by C.R.C.P. 265(c)(2) and 265(a)(3), if the firm has professional liability insurance. 	C.R.C.P. 265(a) and (e) (describing how licensed attorneys can practice law through a professional company).
<ul style="list-style-type: none"> Are these governing documents reviewed at least annually by the partners, shareholders, or members? 					Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), §6.2 (discussing available forms of organization for the practice of law).

<u>Assessment Questions</u>	Yes	No	N/A	Ethical Considerations	Other Resources
<ul style="list-style-type: none"> Do you revise them to reflect changes in ownership? Is the firm a professional service company? 					
<u>Compensation</u>				<ul style="list-style-type: none"> Although maintaining the appropriate balance between earning fees and managing risk can be challenging, the long-term detriment of an unmanaged risk can far outweigh short-term income from fees. Colo. RPC 1.5(a) (regarding the reasonableness of attorney's fees). 	
<u>Sole Practitioner</u>					
<ul style="list-style-type: none"> Is your net income enough to give you time apart from practicing law to handle management of risks to the practice? 					
<u>Compensation</u>				<ul style="list-style-type: none"> Compensation packages that encourage taking on questionable clients in order to maximize billable hours in the near term may later result in unpaid accounts receivable or, even worse, a lawsuit. When conducting client intake, the desire of the lawyer introducing the client to increase his or her book of business must be balanced against the best interests of the firm as a whole. Compensation should be structured so that the firm can say "no" to an unsuitable prospective client. 	
<u>Small Firm (2-5 attorneys)</u>					
<ul style="list-style-type: none"> Are partners, shareholders or members compensated in a manner conducive to cooperation with and participation in management of risks to the firm? 					
<u>Insurance and Compliance Counsel</u>				<ul style="list-style-type: none"> The policies discussed in this part #6 also are useful to diminish risk. It is consistent with an attorney's fiduciary responsibilities to obtain insurance coverage up to the full amount of the possible harm, not including the cost of defense. 	<p>See C.R.C.P. 265(a)(3) for the minimum requirements for insurance; the 2017 attorney registration form will include a list of malpractice insurance carriers.</p> <p>COLO. SUP. CT., OFF. OF ATT'Y REG. COUNS., A WORD ABOUT PROFESSIONAL LIABILITY (MALPRACTICE) INSURANCE.</p> <p>AM. BAR. ASS'N, MATERIALS FOR PURCHASERS OF PROFESSIONAL LIABILITY INSURANCE</p>
<u>Sole Practitioner</u>					
<ul style="list-style-type: none"> Do you have malpractice insurance? Have you put in place the risk management policies required or recommended by the insurer? 					

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
					Alec Rothrock, Check Your Policy: Disciplinary Defense Insurance “Coverage,” THE DOCKET, Nov. 23, 2015.
<ul style="list-style-type: none"> Do you have cyber insurance for protection in the event of a cyberattack? 				<ul style="list-style-type: none"> Obtaining coverage to protect against potential cyberattacks and any associated loss to your firm or clients is consistent with fiduciary responsibilities. 	
<u>Insurance and Compliance Counsel</u> <u>Small Firm (2-5 attorneys)</u>				<ul style="list-style-type: none"> To protect the firm from problems, it may make sense to appoint one of the owners as “Compliance Counsel,” in charge of risk management. This lawyer must be given the authority to implement, maintain, monitor and improve policies and procedures that reduce risk, e.g. a comprehensive conflicts checking system. Compliance Counsel should be given enough time in his or her schedule to accomplish the necessary tasks and compensation for the hours spent on them. Compliance Counsel may also be a resource for ensuring attorneys remain compliant with CLE requirements. Colo. RPC 5.1 and 5.3 	<p>See C.R.C.P. 265(a)(3) for the minimum requirements for insurance; the 2017 attorney registration form will include a list of malpractice insurance carriers.</p> <p>MATERIALS FOR PURCHASERS OF PROF'L LIAB. INS., AM. BAR. ASS'N.</p>
<ul style="list-style-type: none"> Has the firm appointed one of its lawyers to represent the firm in litigation, obtain malpractice insurance, promote professional responsibility and guide and monitor the implementation of risk management policies (“Compliance Counsel”)? 				<ul style="list-style-type: none"> Obtaining coverage to protect against potential cyberattacks and any associated loss to the firm or clients is consistent with an attorney’s fiduciary responsibilities. 	
<u>Business Manual</u> <u>Sole Practitioner</u>				<ul style="list-style-type: none"> A written manual of firm policies enables you and your staff to know of and put into action preventative and curative steps for risk management. You should ensure that each employee receives a copy of the manual. New hires should be trained to follow each procedure 	<p>See Sole Practitioner Business Manual and Risk Management Checklist.</p>
<ul style="list-style-type: none"> Does the firm have cyber insurance for protection in the event of a cyber attack? 					

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
				that applies to that person's position. In addition, all staff should attend a regular "refresher course" on policies listed in the manual. By fostering awareness in this way, the policies become an organic part of the firm's operation.	
Small Firm (2-5 attorneys) <ul style="list-style-type: none"> Does the firm have written risk management policies? 				<ul style="list-style-type: none"> A written manual of firm policies is an important tool for managing risk. It enables you and your staff to know of and put into action the necessary preventative and curative steps. Each employee should receive a copy of the manual. New hires should be trained to follow each procedure that applies to that person's position. In addition, all staff should attend a regular "refresher course" on policies listed in the manual. The policies should become an organic part of the firm's operation. 	See Small Firm Business Manual and Risk Management Checklist .
Reporting				<ul style="list-style-type: none"> Risk cannot be reduced unless problems are timely reported. The sooner problems are disclosed, the more likely they are to be resolved without serious adverse consequences. The firm's culture must foster an appreciation that each employee owes his or her loyalty to the firm's clients and the firm's reputation, not to an individual who might prefer to hide a mistake. You must assure employees that reporting problems is appreciated and will not result in retaliation. These areas of potential concern implicate multiple Rules of Professional Conduct including, Colo. RPC 1.1, Colo. RPC 1.3, Colo. RPC 1.4, Colo. RPC 1.5(a), Colo. RPC 3.4(c), Colo. RPC 5.5, Colo. RPC 8.3, Colo. RPC 8.1. Additionally, C.R.C.P. 228 [unauthorized practice of law] and C.R.C.P. 251.23 [disability inactive status]. <i>People v. Adams</i>, P.3d 256, 265 (Colo. 2010). 	Colorado Bar Association Ethics Hotline (303) 860-1115
Sole Practitioner					
Are your staff aware of the requirement to timely report to you: <ul style="list-style-type: none"> Ethics violations? Court-ordered sanctions for litigation misconduct? Regulatory investigations? Client allegations of malpractice or wrongdoing by firm lawyers or staff? Billing disputes? Alcohol, drug, or other employee problems? Over-charging expenses to clients? Incompetence? 					

<u>Assessment Questions</u>	Yes	No	N/A	Ethical Considerations	Other Resources
<ul style="list-style-type: none"> • Unauthorized practice of law? • Harassment? • Any other matters that impede client satisfaction? 					
Are staff supported in making such reports?				<ul style="list-style-type: none"> • If feasible, allowing such reports to be made confidentially may encourage greater reporting. 	
<u>Reporting</u>				<ul style="list-style-type: none"> • Risk cannot be reduced unless problems are timely reported. The sooner problems are disclosed, the more likely they are to be resolved without serious adverse consequences. The firm's culture must foster an appreciation that each employee owes his or her loyalty to the firm's clients and the firm's reputation, not to an individual who might prefer to hide a mistake. You must assure employees that reporting problems is appreciated and will not result in retaliation. 	Colorado Bar Association Ethics Hotline (303) 860-1115
<u>Small Firm (2-5 attorneys)</u>					
Are the lawyers and staff aware of the requirement to timely report to the Compliance Counsel: <ul style="list-style-type: none"> • Ethics violations? • Court-ordered sanctions for litigation misconduct? • Regulatory investigations? • Client allegations of malpractice or wrongdoing by firm lawyers or staff? • Billing disputes? • Alcohol, drug, or other employee problems? • Over-charging expenses to clients? • Incompetence? • Unauthorized practice of law? • Harassment? • Any other matters that impede client satisfaction? 					

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
Are lawyers and staff supported in making such reports?				<ul style="list-style-type: none"> If feasible, allowing such reports to be made confidentially may encourage greater reporting. 	
Supervision					
Sole Practitioner					
<ul style="list-style-type: none"> Do you conduct performance reviews of staff? 				<ul style="list-style-type: none"> Colo. RPC 5.3 mandates supervision of non-lawyer staff to ensure professionalism. Ongoing monitoring and mentoring of employees also makes sense from a business standpoint. Clients are attracted to and retained by success. Successful lawyering requires proficiency and efficiency. To achieve these goals, managers must require that employees perform well. The employment of those who cannot meet the firm standards should be terminated. Performance reviews conducted on at least an annual basis are critical to reinforce professionalism and efficiency. 	Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), §§ 1.2.5; 1.2.6
<ul style="list-style-type: none"> Do you have procedures in place to ensure that the conduct of your staff conforms to your professional obligations? 				<ul style="list-style-type: none"> Staff need written direction and verbal explanation as to what conduct the firm requires. Colo. RPC 5.3 You may wish to develop a handbook that addresses the professional obligations of all staff. 	See Sole Practitioner Staff Procedures Checklist .
<ul style="list-style-type: none"> Do you regularly review each client matter to check that you and staff have timely performed tasks? 				<ul style="list-style-type: none"> Missed deadlines and work not completed are among the most common ethics complaints. Colo. RPC 1.3 Colo. RPC 1.4 Colo. RPC 1.15A; 1.15B 	<p>These checks may include:</p> <ul style="list-style-type: none"> Checking to see that pleadings have been filed; <ul style="list-style-type: none"> Client inquiries responded to; Fund deposited in trust; Deadlines calendared. <p>You may also consider regular meetings with each staff member regarding ongoing assignments.</p>
Supervision					
Small Firm (2-5 attorneys)					
<ul style="list-style-type: none"> Does the firm conduct regular performance reviews of associates and staff? 				<ul style="list-style-type: none"> Colo. RPC 5.3 mandates supervision of attorneys and non-lawyer staff to ensure professionalism. Ongoing monitoring and mentoring of attorneys and employees also makes sense from a business 	LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 1.3.1

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
				standpoint. Clients are attracted to and retained by success. Successful lawyering requires proficiency and efficiency. To achieve these goals, managers must require that attorneys and employees perform well. The employment of those who cannot meet the firm standards should be terminated.	
<ul style="list-style-type: none"> Does the firm have a mentoring program for its associates? 				<ul style="list-style-type: none"> Mentoring associates improves their performance and, as a result, improves firm performance 	LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 1.3.1
<ul style="list-style-type: none"> Do you have procedures in place to insure that the conduct of your staff conforms to your professional obligations? 				<ul style="list-style-type: none"> Staff need written direction and verbal explanation as to what conduct the firm requires Colo. RPC 5.3 You may wish to develop a handbook that addresses the professional obligations of all staff. 	See Small Firm Staff Procedures Checklist .
Hiring					
Sole Practitioner					
<ul style="list-style-type: none"> Do you perform due diligence before hiring new staff? 				<ul style="list-style-type: none"> You must be careful when hiring to avoid employees who will create problems down the road. In addition to the interview, you should thoroughly investigate the applicant's background, particularly problems during recent employment. You may also want to verify academic degrees and conduct a background check. 	
<ul style="list-style-type: none"> Does this include checking the list of persons and businesses ordered to stop engaging in the unauthorized practice of law on the Supreme Court website? 				<ul style="list-style-type: none"> Colo. RPC 5.5(a) 	Colorado Supreme Court, List of persons ordered to stop engaging in the unauthorized practice of law .
Hiring					
Small Firm (2-5 attorneys)					
<ul style="list-style-type: none"> Does the firm undertake due diligence before 				<ul style="list-style-type: none"> The firm must be careful when hiring to avoid employees who could create problems down the 	

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
hiring new associates and staff?				road. In addition to the interview, the hiring manager should thoroughly investigate the applicant's background, particularly problems during recent employment, including professional liability claims. If a lawyer is transferring from another firm, the owners, or Compliance Counsel, if one is appointed, should troubleshoot the new lawyer's cases. Additionally, Compliance Counsel may consider verifying academic history.	
<ul style="list-style-type: none"> Does this include checking the list of persons and businesses the Supreme Court has ordered to stop engaging in the unauthorized practice of law? 				<ul style="list-style-type: none"> Colo. RPC 5.5(a) 	Colorado Supreme Court, List of persons ordered to stop engaging in the unauthorized practice of law .
<ul style="list-style-type: none"> Are new hires oriented regarding the firm's risk management policies? 				<ul style="list-style-type: none"> Small firms should consider educating new employees about risk management to avoid situations where a new employee does not follow the policies and an ethical concern arises. 	
Termination of Staff					
Sole Practitioner					
<ul style="list-style-type: none"> Do you take steps when a staff member is terminated or leaves the firm to ensure client files remain confidential? 				<ul style="list-style-type: none"> If a staff member must be terminated, your priority should be maintaining security and confidentiality. This means return of all firm property and cutoff from all access. This may entail changing passwords, and introducing clients to new staff who will be working on the case. 	See Employee Resignation/Termination Checklist .
Termination of Staff					
Small Firm (2-5 attorneys)					
<ul style="list-style-type: none"> When a lawyer, paralegal or staff member is terminated or leaves the firm, does the firm take steps to insure 				<ul style="list-style-type: none"> If a lawyer or staff member must be terminated, your priority should be maintaining security and confidentiality. This means return of all firm property and cutoff from all access. If the firm will be continuing as counsel for the departing 	See Employee Resignation/Termination Checklist .

<u>Assessment Questions</u>	Yes	No	N/A	<u>Ethical Considerations</u>	<u>Other Resources</u>
confidentiality of client matters?				lawyer's clients, transition of the files should include introduction of the clients to the new lawyer assigned to their cases.	
<u>Accepting New Engagements</u>					
<u>Sole Practitioner</u>					
<ul style="list-style-type: none"> Do you undertake due diligence before agreeing to represent new clients or taking on an additional matter for an existing client? This includes assessing your competency and the client's capacity to pay. 				<ul style="list-style-type: none"> Clients who are financially weak may not be appropriate to take on, unless you can afford <i>pro bono</i> representation. 	<p>See Sole Practitioner Client Engagement Checklist.</p> <p>Linda Oligschlaeger, A Few Tips on How to Collect Your Fees, THE MO. BAR.</p> <p>See Self-Assessment #1, Developing Competent Practices.</p>
<u>Accepting New Engagements</u>					
<u>Small Firm (2-5 attorneys)</u>					
<ul style="list-style-type: none"> Does the firm undertake due diligence before agreeing to represent new clients or taking on additional matters for a client, including considering competency and the client's capacity to pay? 				<ul style="list-style-type: none"> Clients who are financially weak may not be appropriate to take on, unless you can afford <i>pro bono</i> representation. 	<p>See Small Firm Client Engagement Checklist.</p> <p>Linda Oligschlaeger, A Few Tips on How to Collect Your Fees, THE MO. BAR.</p>
<u>Provision of Law-Related Services</u>					
<ul style="list-style-type: none"> Are you engaged in the provision of law-related services or do you control an organization that provides such services? If so, do you need to take 					
				<ul style="list-style-type: none"> Colo. RPC 5.7 details when an attorney may be bound by the Rules of Professional Conduct with respect to the provision of law-related services. 	<p>CBA Ethics Op. 98: Ethical Responsibilities of Lawyers Who Engage in Other Business.</p>

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
measures to assure clients that the services are not legal services?					
Disengagements					
Sole Practitioner					
<ul style="list-style-type: none"> Do you have a policy requiring that a letter be sent to each client or successor counsel promptly following a file closing? 				<ul style="list-style-type: none"> A closing letter prevents confusion as to whether the attorney is still representing the client if there is subsequent litigation. It is also an opportunity for an attorney to end the attorney-client relationship on a positive, cordial note. 	<p>LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), §§ 2.10, 2.12.</p> <p>Miranda Mandel, <i>Ethical & Liability Concerns When the Client Relationship Ends</i>, ATT'YS LIAB. ASSURANCE SOC., INC. (2014).</p>
<ul style="list-style-type: none"> Do you have a standard procedure for returning unearned fees and other client funds to clients? 				<ul style="list-style-type: none"> Colo. RPC 1.16(d) 	<p>LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 20.4.5</p>
<ul style="list-style-type: none"> Do you have a procedure for collecting accounts receivable? 				<ul style="list-style-type: none"> Colo. RPC 1.16(d) 	
<ul style="list-style-type: none"> Do you have a standard procedure for notifying the court of your disengagement? 				<ul style="list-style-type: none"> C.R.C.P. 121 § 1-1(2) and(3) 	<p>Miranda Mandel, <i>Ethical & Liability Concerns When the Client Relationship Ends</i>, ATT'YS LIAB. ASSURANCE SOC'Y, INC. (2014).</p>
Disengagements					
Small Firm (2-5 attorneys)					
<ul style="list-style-type: none"> Does the firm have a policy requiring that a letter be sent to each client or successor counsel promptly following the closing of a file? 				<ul style="list-style-type: none"> A closing letter prevents confusion as to whether the attorney is still representing the client if there is subsequent litigation. It can also be an opportunity for an attorney to end the attorney-client relationship on a cordial, positive note. 	<p>LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), §§ 2.10, 2.12.</p> <p>Miranda Mandel, <i>Ethical & Liability Concerns When the Client Relationship Ends</i>, ATT'YS LIAB. ASSURANCE SOC'Y, INC. (2014).</p>
<ul style="list-style-type: none"> Does the firm have a procedure for returning unearned fees and other 				<ul style="list-style-type: none"> Colo. RPC 1.16(d) Colo. RPC 3.4(c) 	<p>LAWYERS' PROFESSIONAL LIABILITY IN COLO., 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 20.4.5</p>

Assessment Questions	Yes	No	N/A	Ethical Considerations	Other Resources
client funds upon disengagement?					
• Does the firm have a procedure for collecting accounts receivable?				• Colo. RPC 1.16(d)	
• Is an unpaid balance reviewed by Compliance Counsel before a collection action is commenced?					
• Does the firm have a procedure for notifying the court of its disengagement?				• C.R.C.P. 121 § 1-1(2) and(3)	Miranda Mandel, Ethical & Liability Concerns When the Client Relationship Ends , ATT'YS LIAB. ASSURANCE SOC'Y, INC. (2014).
• If the firm is selling or ending its business, has the firm purchased tail malpractice coverage?					
Closing					
Sole Practitioner					
• Do you have plans for winding down your practice? Are those plans in writing?				• In closing your practice, you need to notify clients, opposing counsel, and courts. Additionally, you need to return client files or transfer them as well as return unearned funds. You may consider tail malpractice insurance.	PLANNING AHEAD: A GUIDE TO PROTECTING YOUR CLIENTS' INTERESTS IN THE EVENT OF YOUR DISABILITY OR DEATH (ONE OF WHICH IS INEVITABLE) , OFF. OF ATT'Y REG. COUNS. (2007).

SELF-ASSESSMENT #7 — CHARGING APPROPRIATE FEES AND MAKING APPROPRIATE DISBURSMENTS

Except in circumstances where a lawyer has previously represented a client, a lawyer is required to communicate to a client the base and rate of a fee in writing. Colo. RPC 1.5. It is in the interest of both the lawyer and client to have this communication take the form of a formal written fee agreement signed by both. This protects both the client and the lawyer. In considering what provisions such an agreement should contain, counsel should consider the following questions:

Questionnaire	Yes	No	N/A	Ethical Considerations	Other Resources
Have you identified the client properly?					
<ul style="list-style-type: none"> If the client is an entity, does the person with whom you are dealing have the authority to bind the client? 					
<ul style="list-style-type: none"> If someone other than the client is paying your fee, do you have a separate understanding reduced to writing with that person? And has the client consented? 				<ul style="list-style-type: none"> Colo. RPC 1.8(f) Does the separate understanding make it clear that only the client controls the representation? 	CBA Ethics Op. 91, Ethical Duties of Attorney Selected by Insurer to Represent Its Insured .
<ul style="list-style-type: none"> Does the client have policies that require in-house approval of your fee agreement? 					
If you have represented the client before, is there a good reason not to have a new fee agreement for the new matter?				Colo. RPC 1.5, cmt. 2 : “. . . when there has been a change from [the attorney and client’s] previous understanding, the basis or rate of the fee should be promptly communicated in writing.”	
Have you adequately described the scope of the representation in your fee agreement or engagement letter?				<ul style="list-style-type: none"> Colo. RPC 1.2(a), Colo. RPC 1.2(c) Precision in describing the scope of the representation avoids disputes as to what services were contemplated. In a litigation matter, for example, an attorney may want to exclude an obligation to file an appeal. In an entity formation matter, a lawyer should consider whether to include that the representation covers tax advice. 	Marian Rice, Engagement Letters: Beginning a Beautiful Relationship , L. PRACTICE MAG., May/June 2013.

<ul style="list-style-type: none"> If you are providing an unbundled legal representation, are your responsibilities clearly defined? 				Colo. RPC 1.2(c)	CBA Ethics Op. 101, Unbundling/Limited Scope Representation .
Do you clearly explain your fees?				Colo. RPC 1.5 cmt. 2.	
<ul style="list-style-type: none"> If your fees may be recoverable from another party, does your agreement make it clear to the client whether they are still responsible? 					
<ul style="list-style-type: none"> Have you avoided any interpretation of a fee as an unearned fee such as a signing bonus? 				Colo. RPC 1.5(f) and (g)	Alec Rothrock, Engagement Retainers: Handle with Care , THE DOCKET, Sept. 22, 2015.
If the fee agreement involves a retainer, have you explained how unearned fees will be held in trust prior to being earned?				Colo. RPC 1.5, cmt. 10 : “the lawyer must hold in trust all fees . . . until there is a basis on which to conclude that the lawyer has earned the fee.”	See Self-Assessment 8 – Trust Account Practices
<ul style="list-style-type: none"> If a COLTAF account is to be employed, have you explained that the client will not earn interest on the funds? 				Colo. RPC 1.15B(b)	
For flat fee agreements, have you complied with Colo. RPC 1.5(h)?				Colo. RPC 1.5(h)	
<ul style="list-style-type: none"> Have you communicated the terms of the flat fee in writing before or within a reasonable time after beginning the representation? 				Colo. RPC 1.5(h)	
<ul style="list-style-type: none"> Have you described the services you agree to perform? 				Colo. RPC 1.5(h)	
<ul style="list-style-type: none"> Does your writing provide the amount to be paid to you and the timing of that payment for the services to be performed? 				Colo. RPC 1.5(h)	
<ul style="list-style-type: none"> Does it specify the amount of the flat fee to be earned if you complete specific tasks or certain events occur before the representation concludes? 				Colo. RPC 1.5(h)	

<ul style="list-style-type: none"> Does it explain the method you will use to calculate the fees you earn if the representation terminates before the completion of specific tasks or the occurrence of specific events? 				Colo. RPC 1.5(h)	
<ul style="list-style-type: none"> If a dispute arises as to whether you earned all or part of the fee, do you comply with Colo. RPC 1.15A(c) and keep the funds separate? 				Colo. RPC 1.5(h) Colo. RPC 1.15A(c)	
For a contingent fee agreement, have you complied with Colo. RPC 1.5(c)?				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Do you put the terms of the contingent fee agreement in writing before, or within a reasonable time after, the representation begins? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Does the contingent fee agreement include the name of the lawyer and client, a statement of the nature of the claim or controversy, and a description of each event triggering your right to compensation? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Does it describe the method by which your fee will be determined, including the percent or amounts that you earn in the event of settlement, trial, or appeal, and does it specify whether your fee is determined before or after deduction of costs and expenses you advanced or other amounts owed by the client? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Does it contain a statement explaining under what circumstances you may be entitled to compensation if your representation concludes before an event triggering your right to a contingent fee? 				Colo. RPC 1.5(c)	

<ul style="list-style-type: none"> Does it contain an estimate of expenses to be incurred; whether you may advance funds for litigation-related expenses to be reimbursed through recovery and the amount of such expenses you may advance without approval; and whether the client must pay expenses if no recovery happens? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Does it advise the client a court may award costs or attorney fees against the client? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Does it advise the client a court might award costs or attorney fees in favor of the client, and if that occurs, does it state how costs or attorney fees will be handled? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Does it inform the client that if you decide to hire associated counsel, you will inform the client in writing of who will be associated counsel, as well as that hiring associated counsel will not increase the contingent fee unless the client agrees, and that the client has the right to disapprove hiring of associated counsel? 				Colo. RPC 1.5(c)	
<ul style="list-style-type: none"> Inform the client that other persons or entities may have a right to be paid from amounts recovered on the client's behalf? 				Colo. RPC 1.5(c)	
Have you accurately described costs and expenses?				Colo. RPC 1.5(b)	
<ul style="list-style-type: none"> If you advance costs or expenses, when is your client obligated to reimburse you? 					
<ul style="list-style-type: none"> Is it clear that the client is responsible for certain costs like postage, copying, depositions, transcripts, service of process? 				Colo. RPC 1.5(a)	SDCBA Legal Ethics Opinion 2013-3 , SAN DIEGO COUNTY BAR ASS'N, July 16, 2013.

<ul style="list-style-type: none"> Have you considered a cost retainer to ensure that persons providing services will be paid since it would otherwise be my responsibility? 					
If you are working with an attorney on the case who is outside your firm, has the client consented and have the responsibilities of each lawyer been clearly defined?				Colo. RPC 1.5(d)	David Hudson, <i>Sharing Fees with a Lawyer Outside the Firm Is OK as Long as Certain Ethics Rules Are Followed</i> , ABA J., July 1, 2016.
Have you described how other lawyers or paralegals who work on the matter will be compensated?				Colo. RPC 1.5(a)	
If your client has the proposed fee agreement for consideration, have you stated when you must have a signed fee agreement in order to commence work?				Colo. RPC 1.5(b) provides that the lawyer shall communicate to the client in writing the basis or rate of the fee before or within a reasonable time after commencing the representation.	
<ul style="list-style-type: none"> Is time of the essence? If you must have money before work begins, have you made this clear to the potential client? 				If you must have money before commencing work, explain this to the potential client.	
<ul style="list-style-type: none"> Do you have a system to track unsigned, outstanding proposed fee agreements? 					
Have both you and your client signed the fee agreement?				Although not expressly required under the Colorado Rules of Professional Conduct, a lawyer should obtain a signed fee agreement. The client's agreement should be memorialized.	
Do you have an appropriate arbitration clause in your fee agreement?				Colo. RPC 1.5, cmt. 9	ABA Ethics Op. 02-425: Retainer Agreement Requiring Arbitration of Fee Disputes and Malpractice Claims .
Do you explain to your client the circumstances under which you may be forced to ask the court for permission to withdraw, or when you have to do so in a non-litigation matter?				Colo. RPC 1.16(a)	Helen Gunnarsson, <i>Avoiding Withdrawal Pains</i> , ILL. BAR J., May 2010.

Does the fee agreement explain the rights you and the client have to withdraw or terminate the relationship based on certain events or conduct, such as non-payment or non-cooperation?				Colo. RPC 1.16(b)	Helen Gunnarsson, Avoiding Withdrawal Pains , ILL. BAR J., May 2010.
Does the fee agreement grant permission to disclose confidential information the client may provide to you when you reasonably believe that such disclosure would assist in achieving a satisfactory result in the case?				Colo. RPC 1.6, cmt. 5 . Explaining to the client up front the circumstances when you may need to disclose confidential information to achieve a satisfactory result can help reduce any misunderstanding and dispute in the future.	Dean Dietrich, Ethics: “Impliedly Authorized” Disclosure of Client Information , WIS. LAW., October 2010.

SELF-ASSESSMENT #8 — ENSURING THAT RELIABLE TRUST ACCOUNT PRACTICES ARE IN USE

Lawyers must establish a trust account if they accept fees from clients for work they have not yet performed or for expenses not yet incurred. In addition, lawyers who receive client settlement funds or hold a third party’s funds as part of a legal representation must have a trust account. The obligation to establish a trust account springs from an attorney’s fiduciary duty to clients and third parties and the related duty to safeguard property belonging to others. Under the Colorado Rules of Professional Conduct, lawyers have to keep funds that belong to clients or third persons separate from the lawyer’s own property. This includes separate from the lawyer’s business or personal accounts.

Lawyers can find the rules pertaining to trust account management at Colo. RPC 1.15A – 1.15E. These rules cover trust account issues ranging from record keeping, to who may withdraw funds, to when account reconciliation must occur.

Proper trust account management is essential to an ethical, professional practice. The following self-assessment contains questions that lawyers required to have a trust account should consider in managing and maintaining such an account.

Questionnaire	Yes	No	N/A	Ethical Considerations	Other Resources
<u>Client Trust Account Overview</u>				<p>Any lawyer in private practice shall maintain a Trust Account for:</p> <ul style="list-style-type: none">• advanced payment of fees that have not been earned• and advance payment of expenses• and funds that have been entrusted to the lawyer’s care in connection with a representation	<p>OFF. OF ATT’Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL.</p> <p>“Frequently Asked Questions,” Colorado Lawyers Trust Account Foundation Web Site, coltaf.org.</p> <p>Ed Poll, Trust Accounts: Accountability, Access, and Advantages, LAW PRAC. TODAY, Jan. 24, 2015.</p>
Do you hold funds for your clients or third parties as part of your legal representation of another?					
<ul style="list-style-type: none">• If so, do you have a client trust account?					
<ul style="list-style-type: none">• Is it a COLTAF account?				<ul style="list-style-type: none">• The rules do not say that a Colorado lawyer must have a COLTAF Account. They say “Trust Account.” However, most lawyers satisfy this with a COLTAF Account.• Colo. RPC 1.15B(b)	Colorado Lawyers Trust Account Foundation, coltaf.org.
<ul style="list-style-type: none">• Is your general client trust account or COLTAF account labeled as either “trust” account or “COLTAF” account?				<ul style="list-style-type: none">• Colo. RPC 1.15B(a)(2): Trust account name must include either “trust” or “COLTAF.”	OFF. OF ATT’Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Basic Requirements for Trust Accounts .
Do you practice in more than one state or does your firm practice in multiple jurisdictions?					

<ul style="list-style-type: none"> If so, do you or does your firm maintain a client trust account in each state in which you or your firm practices? 					
<ul style="list-style-type: none"> If so, do you or your firm follow each state's varying rules of professional conduct concerning trust accounts? 				Jurisdictions vary in their trust account management requirements. Lawyers who practice in multiple jurisdictions should familiarize themselves with jurisdiction-specific trust account rules.	Steven J. Best, <i>A Lawyer's 7-Point Plan for Trust Account Management</i> , LexisNexis Law Firm Practice Management White Paper Series, 2013, at p. 2. MANAGING TRUST ACCOUNTING FOR COMPLIANCE , LEXISNEXIS BEST PRACTICE (2010).
For funds held as part of your Colorado practice, is your trust account at an approved bank doing business in the State of Colorado?				Colo. RPC 1.15E(c)(1)	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Basic Requirements for Trust Accounts .
Do you have Colorado clients who desire to have their funds you hold for them placed in a non-COLTAF account?				Colo. RPC 1.15B(b) , Colo. RPC 1.15B(h)	
<ul style="list-style-type: none"> If so, do you have a form for obtaining client consent to place funds outside of a traditional client trust account? 				Lawyers utilizing non-traditional trust accounts may wish to obtain written client consent that to such an arrangement to memorialize the agreement.	
Who in your firm is responsible for the operation of the client trust account?				Colo. RPC 1.15C(b)	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, BASIC REQUIREMENTS FOR TRUST ACCOUNTS, DELEGATION OF TRUST ACCOUNT DUTIES . MANAGING TRUST ACCOUNTING FOR COMPLIANCE , LEXISNEXIS BEST PRACTICE (2010).
Do you keep unearned fees in your client trust account/COLTAF account until you have earned such funds?				Colo. RPC 1.15A(c)	
Do you provide notice to the client of your removal of earned funds within a reasonable time?				Colo. RPC 1.15D(a)(4)	Ed Poll, Trust Accounts: Accountability, Access, and Advantages , L. PRACTICE TODAY, Jan. 24, 2015.

Do you have policies and procedures in place to ensure that you do not deposit business or personal funds in to your trust account?			<ul style="list-style-type: none"> • Colo. RPC 1.15A(a) • A lawyer cannot use his or her trust account as a personal account for holding or hiding personal assets. Likewise, it would be inappropriate for a law firm to deposit in a trust account the money the firm plans to use on a holiday party. Another example of such a problem is a lawyer who has his stock market sales receipts wired into his trust account. 	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Commingling . Amy DeVan, Use of the Client Trust Account: What Not to Do , THE DOCKET, June 30, 2016.
Do you deposit all items intact into your client trust account/COLTAF account?			Colo. RPC 1.15C(a) . All trust account receipts shall be deposited intact and the duplicate deposit slip should be sufficiently detailed to identify each item.	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Advance Fees, Costs , and Depositing and Withdrawing Fees from Trust Accounts .
Do you hold disputed funds in your client trust account/COLTAF account until the dispute is resolved voluntarily or by court action?			Colo. RPC 1.15A(c) .	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Disputes Over Funds in a Trust Account .
Do you provide a prompt accounting to your clients and/or third parties for whom you have or still are holding funds for?			Colo. RPC 1.15A(b) . Upon request by the client or third person, a lawyer shall promptly render a full accounting regarding property held by the lawyer belonging to a client or third party.	People v. Miller , 35 P.3d 689, (Colo. O.P.D.J. 2001) (Client asked for an accounting of funds and a refund of the unused portion of the retainer. Lawyer did not provide an accounting. Failure to account for the funds entrusted to him was a violation of Colo. RPC 1.15(b), predecessor to Colo. RPC 1.15A(b)).
Do you comply with the trust account recordkeeping requirements outlined in Colo. RPC 1.15D? These include maintaining: <ul style="list-style-type: none"> • Records showing the date and amount of deposits made into your trust account; • Records showing the source of all funds for deposits made into your trust account; • Records showing the names and addresses of all persons for whom you hold funds in your trust account; • Records showing the amount and description of all withdrawals, including the date; 			Colo. RPC 1.15D(a)(1)(A)	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Required Accounting Records .

<ul style="list-style-type: none"> Records showing the names of those to whom money was disbursed and when. 					
Do you maintain copies of all trust account records for a period of seven years after they were created?				Colo. RPC 1.15D(a)	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Required Accounting Records .
To promote compliance with your recordkeeping requirements, do you keep a generalized ledger that lists all transactions in your trust account? Do you also keep separate client and administrative ledgers?				Colo. RPC 1.15D(a)(1)(A)	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Required Accounting Records .
Do you have policies and procedures to ensure that a reconciliation of your trust account occurs at least quarterly and that a lawyer admitted in Colorado or a person under such a lawyer's supervision performs the reconciliation?				Colo. RPC 1.15C(c)	OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Delegation of Trust Account Duties .
As part of the reconciliation, do you ensure that the balance on your trust account bank statement is the same as that in the general ledger or check register with adjustments?					
Do you also make sure each client ledger balance adds to the same balance as in the trust account bank statement when reconciling?					
Do you have a training program for any non-lawyer to whom you have delegated day-to-day trust account management duties that covers how to handle client or third party funds?					OFF. OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL, Delegation of Trust Account Duties .
<p>If you delegate trust account management duties to a non-lawyer, ensure that you actively oversee the non-lawyer's work by:</p> <ul style="list-style-type: none"> Reviewing monthly bank statements; Reviewing the trust account general ledger monthly; Reviewing client ledgers monthly; Reviewing images of cancelled checks monthly; 					OFFICE OF ATT'Y REG. COUNSEL, COLO. SUP. CT., TRUST ACCOUNT MANUAL, Delegation of Trust Account Duties .

<ul style="list-style-type: none">• Reviewing trust account reconciliation whenever it is performed.					
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SELF-ASSESSMENT #9 — ACCESS TO JUSTICE AND CLIENT DEVELOPMENT

An important part of the administration of justice in our state is ensuring that people of all economic levels and geographic locations have access to not only the courts, but to competent, licensed professional legal assistance. This self-assessment form is designed to help lawyers evaluate their practices and procedures relating to this important principle. Because tackling the justice gap necessarily involves reaching out to underserved communities, we also provide guidelines concerning client development.

Access to Justice: Lawyers have a duty to promote and protect the public interest. One of the most significant issues currently facing consumers of legal services is meaningful access to justice. For purposes of this assessment, we are defining “access to justice” as a concept much broader than access to the courts and litigation. It encompasses a recognition that everyone is entitled to the protection of the law. It is about protecting ordinary and vulnerable people and solving their problems. Improving access to justice in Colorado requires leadership and change that reaches well beyond the traditional construct of legal aid. The responsibility must also fall to law firms and other for-profit legal organizations to look inward at what they might do themselves to better meet their obligations to promote and protect the public interest. Encouraging pro bono or other volunteer work, as well as exploring alternative fee arrangements and limited scope retainers (where appropriate and permitted), are examples of some tangible steps that firms can take to do their part to close the justice gap.

Additionally, lawyers and law firms should explore how they interact with self-represented parties. One aspect of the access to justice crisis in Colorado is that legal services have become increasingly expensive, and are unaffordable for many of those who have a need for legal services. This has resulted in a large number of self-represented parties. Studies show that a significant number of self-represented litigants have complaints about the opposing counsel with whom they interact. On the other hand, many lawyers report challenges in communicating or negotiating with self-represented litigants. This suggests, at the very least, that lawyers need more information and training to assist them in dealing with self-represented litigants.

Client Development: Client development and access-to-justice issues are closely tied together. When law firms are willing to retain clients using alternative fee structures and limited scope representation, more people are aware of and able to access legal services, while lawyers expand their books of business and diversify revenue streams. This is a classic example of a win-win. Providing legal services at reduced rates for low-income clients, adopting alternate billing models, and providing unbundled services are all examples of ways that lawyers can both bridge the justice gap, as well as develop new clients.

Questionnaire	Yes	No	N/A	Suggested Systems & Practices	Resources
Objective 1: Creating an efficient business structure that has room for alternative operational strategies aimed at reducing expenses and improving long-term sustainability.					
<p>Have you carefully considered your monthly expenses and overhead, and have you considered ways to reduce your expenses such as:</p> <ul style="list-style-type: none"> -office sharing -alternative office space -phone service -investigator pricing -staff -supplies/equipment 				<p>A law firm can incur sizable expenses and overhead. There are numerous ways to gradually build and manage infrastructure in the effort to keep costs more manageable. Low expenses and overhead means that less money is needed to be profitable and sustainable. Likewise, with tools (such as a state-of-the-art case management system), lawyers and law firms can achieve greater efficiency. This may reduce the need for additional staff (which in turn reduces overhead). This may also free up an attorney's time and provide a financial cushion that allows the attorney to take on pro-bono and modest means cases. If you are a solo lawyer just starting out, sharing office space will allow you to pool resources, save money and ease the isolation of practicing alone. But before entering into an office sharing arrangement with another lawyer, it is imperative that you know exactly what you can and cannot share, whether it be rent, computers—or even clients. Lawyers should also be mindful that sharing office arrangements with non-lawyers is a separate issue that subjects lawyers to distinct ethics requirements.</p>	<p>Randall Ryder, <i>How to Keep Your Solo Practice Sustainable and Lean</i>, Lawyerist.com, March 25, 2016.</p> <p>Jenny B. Davis, <i>Designing Your Law Office to Save Money and Boost Productivity--Without Sacrificing Style</i>, ABA J., July 1, 2014.</p> <p>Kathryn Thompson, <i>Keeping Your Office Sharing Arrangements with Other Lawyers Squeaky Clean Under the Ethics Rules</i>, ABA CTR. FOR PROF'L RESP., May 2007.</p>
Do you use technology to increase your efficiency and increase your ability to provide legal services at a lower cost/hourly fee?				Computer programs – such as for timekeeping, case management, etc., can increase productivity and reduce manual hours spent (and reduce stress).	Dean R. Dietrich, <i>Handling Clients' Text Messages</i> , WIS. LAWYER, April 2016.

Questionnaire	Yes	No	N/A	Suggested Systems & Practices	Resources
Objective 2 - Having an effective office set-up that is conducive to providing services to a broader population.					
<p>Do you have a plan to promote cultural competency in your office?</p> <p>Does that plan include recruitment practices that consider diversity as relevant to the effort to promote access to justice?</p>				<p>Consider training to help attorneys and staff develop strategies for dealing with non-English speaking clients, low-income clients, and clients who may have had prior bad experiences with the justice system. Develop training to help attorneys effectively reach out to underserved populations who may not be aware of the nature of the American legal system. Also consider setting up appropriate expectations and practices – including hiring – that will allow the office to be responsive to the community. Diversity is a legitimate consideration in this regard.</p>	<p>N. Y. C. BAR ASS'N MINORITIES IN THE PROFESSION COMM., BEST PRACTICES STANDARDS FOR THE RECRUITMENT, RETENTION, DEVELOPMENT, AND ADVANCEMENT OF RACIAL/ETHNIC MINORITY ATTORNEYS.</p> <p>Minority Corporate Counsel Association, “Creating Pathways to Diversity.”</p>
Does your firm have bilingual staff and/or access to interpreter/translator services				Hiring bilingual staff and/or providing interpreter/translator services will aid the office in outreach and service to non-English speaking, or English-as-a-second-language clients.	
Do you provide formal or informal training to help staff interact with the public and potential clients?				Training is important for attorneys and staff alike. Simple tasks such as answering phones, responding to inquiries from clients, potential clients, and pro se parties are some of the office’s most important PR. Likewise, lawyers should keep in mind that these interactions are sometimes a person’s first encounter with the legal system--make sure it is a positive and respectful one.	
Do you provide alternatives for clients with less ability to travel (such as to your office and/or normal work site) and/or potential clients who need off-hour meetings?				Potential clients and clients might not have the ability and/or flexibility to leave their work during business hours. Does the firm have a way of meeting with these people? These same individuals might not have transportation options. Is there a way to accommodate them?	Consider: telephone meetings, Skype or Facetime, home visits, meeting at a local library or other place (be cautious about client confidentiality when meeting in public).

Questionnaire	Yes	No	N/A	Suggested Systems & Practices	Resources
Objective 3 – Implementing alternative billing arrangements in order to bring in business and bridge the justice gap.				It is important that strategies and practices are in place that help the firm think broadly about taking diverse clients who might otherwise be unable to access an attorney. This includes actually visiting and getting to know unfamiliar areas.	Justice Index 2016 , National Center for Access to Justice, Fordham Law School
Do you use alternative pay arrangements based on income level?				These can include, for example, payment plans, reduced fees, sliding scale fees & “modest means” fee structures, unbundled services, and pro-bono	
Have you considered providing limited scope representation, i.e. unbundled services?				It is important to remember obligations in both state and federal court. A clear letter laying out the limitations of the representation is also crucial. Also see Colo. RPC 1.2.	<p>INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., UNBUNDLING LEGAL SERVICES: A GUIDE FOR LAWYERS (2015).</p> <p>HON. ADAM ESPINOSA, AMY GOSCHA, JAMES GARTS, HON. DANIEL TAUBMAN, AND DANAÉ D. WOODY, PRACTICAL AND ETHICAL CONSIDERATIONS TO INTEGRATING UNBUNDLED LEGAL SERVICES, COLO. BAR ASS’N/CLE IN COLO., (2015).</p>
If you are not able to take a client, do you direct them to resources for modest means and indigent clients?				As part of providing access to justice for individuals who are confronted with a legal problem, it is important to think about whether simply saying “no” is the optimal answer. It is important to remember the opportunity to redirect a person to the right resources for their situation.	<p>Colorado Legal Services</p> <p>Denver Bar Association Legal Clinics and Free Legal Information</p> <p>Colorado Judicial Branch Self-Help Center</p>

Questionnaire	Yes	No	N/A	Suggested Systems & Practices	Resources
Objective 4: The Firm or Lawyer Provides Pro-Bono and other Volunteer Services					
Do you take on pro bono work and encourage other attorneys in the firm to do so as well?				<p>Pro bono and other volunteer activity in the community is encouraged by the law firm and taken into account in performance evaluations (for example, billable hour credits are provided or annual goals are set).</p> <ul style="list-style-type: none"> • A written pro bono policy is in place. • You are required to participate in pro bono work. • Your entity encourages pro bono work. • Pro bono hours “count” toward billable hour targets. • You spend the appropriate amount of time with the client and are empathetic. • Consideration of Colo. RPC 6.1. 	<p>CANADIAN BAR ASS’N, <i>The ABCs of Creating a Pro Bono Policy for Your Law Firm</i> (Oct. 2009).</p> <p>Stacy DeBroff, Kevin Lapp, Alexa Shabecoff, Pro Bono Guide: An Introduction to Pro Bono Opportunities in the Law Firm Setting, HARVARD L. SCH.</p>
Objective 5 - Using Effective Client Development Strategies to Increase Business and Bridge the Justice Gap				Lawyers should make efforts to be a part of the legal and non-legal community. One way to do this is to network with a local bar association or other legal groups. Lawyers may want to use social media and internet marketing to reach out to non-traditional legal consumers. Lawyers who provide low cost or alternative fee services should emphasize these services in their marketing. Websites and other marketing material should be user friendly and understandable.	
Do you have a marketing strategy?				A marketing strategy might target underserved populations by emphasizing the firm’s commitment to alternative fee arrangements, modest means clients, and unbundled services.	<p>SUCCESSFUL BUSINESS PLANNING: REPRESENTING THE MODERATE INCOME CLIENT, COLO. BAR ASS’N/CLE IN COLO. (2013) (updated version, SUCCESSFUL BUSINESS PLANNING FOR THE MODERN LAW PRACTICE (2016), available here).</p>

Questionnaire	Yes	No	N/A	Suggested Systems & Practices	Resources
Are you actively involved in the Colorado Bar Association and/or a local bar association and/or specialty bar association?				The Bar Association can help lawyers find pro-bono resources and other valuable resources for working with modest means or indigent clients.	Colorado Bar Association (CBA) Local Bar Associations (CBA)
Do you have a website and/or do you use internet tools for marketing?				Use the internet to reach out to new clients. A good website can bring in business. The website could provide concrete information about fees and billing. Websites can also clearly explain the firm's commitment to alternative fee structures, modest means, and unbundled services.	Steve Olenski, The 7 Lethal Internet Marketing Mistakes Law Firms Make , FORBES, Mar. 5, 2015.
Do you market in nontraditional ways and reach out to underserved legal markets?				Consider advertising in diverse publications and neighborhoods. Consider advertising in languages other than English. Further, Colorado is a big state with many potential clients who need services that live outside the Front Range metropolitan areas.	
Objective 6 - The Firm evaluates success in providing access to justice.					
Do you track and evaluate the demographics of clients and where clients are from?				It is important to consider tools to be strategic in advertising, not just reactive. Data collection, for planning purposes, is crucial.	
Do you conduct interviews with clients at the end of representation to evaluate how they feel they have been treated in the legal system?				A satisfied client, and a client who understands what happened and why, is one who will leave with a sense of justice. That client will also refer other clients to the lawyer, even if the client "lost." This is because, as Maya Angelou said, "people will forget what you said, people will forget what you did, but people will never forget how you made them feel."	
Do you or your law firm periodically review your success in reaching out to underserved populations?					Marc Davis, Paying Off , ABA J., June 2018.

SELF-ASSESSMENT #10 — WELLNESS AND INCLUSIVITY

Today’s lawyer demands a better lifestyle that embraces work/life balance and diversity. In 2015, the ABA Commission on Lawyer Assistance Programs and the Hazelden-Betty Ford Foundation conducted a study involving approximately 11,400 actively practicing layers from 19 states. The study revealed that approximately 21% of the lawyers qualified as problem drinkers, 28% struggle with depression, and 19% demonstrate symptoms of anxiety. The study also revealed that nearly one third of the lawyers with these issues are less than 30 years of age and have practiced less than 10 years.

Meanwhile, attraction and retention of quality staff is a challenge due to the reduction in law school attendance, aging in the profession, and 21st century changing technology. Diversity is when you count people; inclusiveness is when you make people count. You need both to have sustainable diversity in your firm/organization. Studies show that to increase staff retention, it is better to keep staff happy, healthy, engaged, and motivated.

This assessment presents a series of questions designed to help you evaluate whether your practice promotes wellness and inclusivity. For resources, the Colorado Lawyer Assistance Program (COLAP) offers Colorado attorneys confidential assistance for any career-related challenge. This could include coping with work stress, anxiety, succession planning, support in grieving a loss, or confronting substance use issues. COLAP has a confidential assistance line and its website, <http://coloradolap.org/>, features links to resources, lists of support groups, and articles on wellness issues. Meanwhile, the Center for Legal Inclusiveness, which is dedicated to “actively educating and supporting private and public sector legal organizations in their own individual campaigns to create cultures of inclusion,” provides support for attorneys looking to enhance diversity in their practice. The Center for Legal Inclusiveness promotes networking to connect attorneys with other attorneys to build career satisfaction and success. Its social media pages offer updates on diversity and inclusivity issues on a local and national level and may be found at <https://centerforlegalinclusiveness.org/>. Other resources to consider include the American Bar Association’s Office of Diversity and Inclusion, which may be found at: <https://www.americanbar.org/groups/diversity.html>, and *What If I Say the Wrong Thing*, by Verna Myers, which is also available through the American Bar Association, <https://shop.americanbar.org/eBus/Store/ProductDetails.aspx?productId=214476>.

Part A: Wellness

	Yes	No
Do you or your firm/organization recognize the importance wellness plays in a person’s professional and personal life?		
Does your firm/organization have procedures to easily identify lawyers/staff with any kind of practice or personal problem? <ul style="list-style-type: none">• Does your firm have a non-punitive method of adjusting the attorney’s workload until the issue is resolved?		
If you are a sole practitioner, do you have a mentor, trusted colleague, family, or friend that you can turn to for support in the event you experience a personal or practice difficulty (or both) and need support?		
If you are a sole practitioner, do you recognize the importance of a work life balance and have you implemented a plan to ensure that balance in your law practice?		
Do you take steps to keep stress associated with the practice of law at a minimum? These may include: <ul style="list-style-type: none">• Taking time to spend with family and friends;		

<ul style="list-style-type: none"> • Volunteering time through community service organizations; • Planning and taking time off; • Reading a new book; • Engaging in physical activity; • Practicing yoga or meditation. 		
<p>If you find yourself becoming stressed or anxious, are you familiar with simple techniques to quickly reduce stress including:</p> <ul style="list-style-type: none"> • Taking a deep breath; • Placing one hand on your upper chest, one on your abdomen, and breathing (a practice that activates calming neurotransmitters); • Opening your eyes and smiling (the act of smiling releases endorphins); • Saying to yourself: “I have the resources to deal with this” and then using those resources. 		
<p>Does your firm/organization have policies and procedures that encourage work life balance/integration and that include:</p> <ul style="list-style-type: none"> • Taking their entitled breaks: lunch breaks, sick leave, annual leave. • Availability of family/parental leave. • Flexible hours when needed. 		
Does your firm/organization provide/offer appropriate and regular quality of life programs during regular business hours, and is everyone encouraged and able to take advantage of them?		
Does your firm/organization’s work environment promote a healthy lifestyle, for example, ergonomically correct work stations, work breaks, walking paths, and access to healthy food & drink choices?		
<ul style="list-style-type: none"> • Does management encourage these options? 		
Does your firm/organization have appropriate referrals for programs to assist with mental health issues (stress, anxiety, depression, bipolar, relationships, etc.)?		
<ul style="list-style-type: none"> • Is everyone aware of resources in the community? 		
Does your firm/organization have appropriate referrals for programs to assist with substance abuse & addiction issues (alcohol, drugs, gambling, sex, food, etc.)		
Does the firm/organization have a dedicated budget to wellness?		
<ul style="list-style-type: none"> • Who is the designated person in charge of the budget? 		

Part B: Diversity/Inclusiveness

	Yes	No
Has your firm/organization developed a rationale of the need for creating a more diverse and inclusive workplace?		

<ul style="list-style-type: none"> Does this rationale tie in with your firm/organization's business imperatives and strategies? 		
Have you taken steps to increase your awareness of implicit bias and other barriers that affect those underrepresented in the legal profession. Consider Project Implicit's free, online assessments at https://implicit.harvard.edu/implicit/aboutus.html .		
Assess which groups with which you feel comfortable, or have a natural affinity, and take steps to meet with or market to those groups that fall outside that list. <ul style="list-style-type: none"> As part of such an assessment, acknowledge that these steps may lead you to feeling uncomfortable and fearful of saying or doing something that may offend others but that you become comfortable once you get past the "uncomfortable." 		
Develop and implement an inclusivity plan that includes a written statement that defines inclusivity and the benefits you hope to gain from being inclusive.		
Does your firm/organization regularly review the compensation structure to ensure that it does demonstrate equal opportunities for all?		
Has your firm/organization devised measures to evaluate diversity and inclusion initiatives and ensure accountability?		
Has your firm/organization identified a person, department and/or committee to monitor your diversity/inclusiveness efforts? <ul style="list-style-type: none"> Does everyone in the firm/organization have a role in its success? 		
Does the firm/organization have a dedicated budget to support diversity/inclusiveness efforts?		
Has the firm/organization implemented training sessions for employees that focus on issues related to diversity/inclusiveness?		

Part C: Catch All

	Yes	No
Does management/senior staff set a good example for staff by creating, implementing, and monitoring dependable office policies and systems, including work-life balance and mentoring programs?		
Are the above policies reviewed on a regular basis (minimum every year) for effectiveness and current, up-to-date standards and information?		
Does Human Resources or management conduct exit interviews that allow for an honest and respectful discussion?		

PRACTICE MANAGEMENT REVIEW (LAWYER)
LAWYER BASIC MANAGEMENT CHECKLIST

Lawyer Name: _____

Law Society Number: _____

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INSTRUCTIONS

1. Please do your best to complete this form fully. We recognize that the process of completing this form can be time consuming. View it as a useful self-assessment exercise.
2. Please feel free to add additional pages of explanation. The Practice Management Review attendance will be more efficient and useful to you if the Reviewer is well informed in advance about your practice and business arrangements.
3. Please ensure that this form is completed and returned so that we receive it no later than the date set out in our cover letter.
4. Please respond to all questions from your personal perspective wherever possible. We acknowledge that you may be required to follow firm-wide practice management systems for which you bear no direct responsibility.
5. Some questions concern firm-wide information or processes. Please obtain the information required from the appropriate individuals in your firm when completing this form. Indicate on the form the name of the individual that supplied you with the information. Please note that you are expected to have a basic knowledge of all firm processes and procedures and you should be duly diligent to ensure that all answers provided are correct and complete.

If during the course of the Practice Management Review attendance, concerns are identified with firm processes and procedures that present a risk to client service and which are beyond the scope of your responsibility at the firm, then the Practice Review Department will be obliged to bring these matters to the attention of the firm's management for their consideration and action.

6. This is a generic form used for a multiplicity of practice arrangements and it is acknowledged that parts of it may be inapplicable to your practice.

If you have any questions, please contact the Reviewer that has been assigned to your file.

A. YOUR LAW PRACTICE

1. a) What is your practice status? (Select all that apply)

Sole Practitioner

- ☐ Practising Alone
- ☐ With one or more lawyers/paralegals as employees
- ☐ With one or more lawyers/paralegals in a shared facility

Multi-Lawyer/Paralegal Firm

- ☐ Partner in a partnership
- ☐ Shareholder in a Professional Corporation
- ☐ Employee/Associate

b) Do you practice with any other licensees?

If YES, please provide the names of the licensees (lawyers or paralegals) with whom you regularly work. It is not necessary to provide the names of all the lawyers/paralegals in your firm/chambers. For each lawyer/paralegal check the appropriate boxes below.

Name of lawyers or paralegals with whom you practise	Associate in same firm	Expense sharing in Chambers	Shareholder in PC	General Partner	Limited Liability Partner	Sole Practitioner Owner

c) Please provide the name of the legal entity which provides and bills the services provided by you/your firm (sole proprietorship/LLP/PC/partnership): _____

2. Do you have formal or informal mentor(s)?

Name of mentor(s): _____

3. What are the main areas of your personal practice?

Your Practice Areas	Percentage of your Personal Practice based on number of files handled in last year
	%
	%
	%
	%
	%
	%

4. Number of open and currently active files for which you are considered to be the lawyer with primary responsibility: _____

5. Approximate number of files that you worked on in the last year: _____

6. Source of clients:

Regular client base:	%
Referrals:	%
Walk-ins:	%
Law Society Referral Service:	%
Website:	%
Internet Advertising:	%
Other Advertising:	%
Other:	%

Please provide particulars of any referral source, client, or group of related clients, who in the last year were, or in the current year are forecast to be, responsible for 20% or more of firm revenue:

--

7. Please indicate the number of full-time and/or part-time staff that assist you in your personal practice.

Full-time #: _____ Part-time #: _____

8. a) Are there arrangements in place to cover vacations or other expected or unexpected absences for you and key staff?

b) Does your firm have a written contingency plan to ensure continuation of client service if your premises are destroyed or are otherwise inaccessible?

c) Are emergency documents (insurance policies, POA, blank cheques, software licenses, emergency contact information, etc.) kept offsite in a secure location?

d) Does your firm take steps, including all risks insurance, to offset losses that could result from fire, theft or any other cause?

9. If you are a sole practitioner, in order to cover absences, have you given Power of Attorney or other written authority to another lawyer over your:

a) Trust account?

b) General Account?

c) Operational Issues?

- 10.a) Are there any space sharing or association arrangements with any non-licensees, or any other lawyers or paralegals who are not members of your firm?

If YES, are the arrangements in writing?

List the parties and briefly describe the arrangements below:

b) Are there any arrangements with paralegals, lawyers, law clerks, consultants, translators, co-op students, conveyancers and others not part of your firm?

If YES, are the arrangements in writing?

List the parties and briefly describe the arrangements below:

--

IF YOU ARE AN ASSOCIATE OR EMPLOYEE, GO TO QUESTION 14

11. If you are a partner in a general or limited liability partnership or shareholder in a professional corporation, do you have a written partnership/shareholders' agreement?

If NO, go to question 14.

12. If YES, which subjects are addressed in your agreement? (Select all that apply)

- ☐ The firm's name
- ☐ Capital contribution
- ☐ The allocation of profits and losses
- ☐ The rights and obligations of each party
- ☐ The decision making process
- ☐ The daily management of the firm
- ☐ The effect of a party's departure (voluntary, forced, death), divorce or separation
- ☐ Dissolution

- An arbitration clause
- Life insurance between parties
- Disability insurance
- General office insurance
- Business interruption insurance
- Excess professional liability insurance, in particular with respect to claims arising from work before or after the person is a partner

13. Is the agreement reviewed regularly?

14. Does your firm:

- a) Pay referral fees?
- b) Receive referral fees?

15. Does your firm, or any related entity, provide any services other than legal advice/services to your clients?

If YES, provide particulars:

--

16. Do you perform agency work for other licensees?

17. Does your firm have written practice management policies?

If YES, which of the following written policies does your firm have? (Select all that apply)

- ☐ Identifying clients
- ☐ Confidentiality
- ☐ Conflicts of interest
- ☐ Tracking limitation periods and other key dates
- ☐ Docketing time
- ☐ Safeguarding client information
- ☐ Computer and email security
- ☐ Periodic review of files
- ☐ Working hours
- ☐ Distribution of work
- ☐ Holidays
- ☐ Overtime
- ☐ Opening and closing/destruction of files
- ☐ Welcoming clients (on the phone and in person)
- ☐ Mail handling
- ☐ Privacy/PIPEDA
- ☐ Technology Use
- ☐ Workplace harassment and discrimination
- ☐ Walk-ins/cold calls
- ☐ Contingency planning

18. Does the stationery used in your correspondence include the firm name, address, telephone and fax numbers, and email address?

19. Do your outgoing emails include a disclaimer?

20. Is the office space set up so that there are private areas for discussions with staff and/or with clients?

21. Is your office and the rest of the firm's space set up so that third parties do not have access to client information and files?

22. Is the firm's office easy to locate by means of a sign or otherwise?

23. Do you regularly verify if your support staff properly understand their functions?

24. Do you regularly review and supervise the work of your support staff?

25. Do you regularly review and supervise the work of lawyers, paralegals, or others on files for which you are the responsible lawyer?

26. Does your firm employ articulated students?

If NO or N/A, skip questions 27-28.

If YES, does the work of articulated students include the following? (Select all that apply)

- ☐ Consultation and research
- ☐ Drafting documents
- ☐ Negotiation and mediation
- ☐ Representation
- ☐ Professional practice, code of ethics

27. Are you responsible for supervising articulated students?

28. Do the articulated students have a workstation or office ensuring confidentiality?

B. CLIENT SERVICE AND COMMUNICATION

1. Do you make and file a detailed note of all calls and consultations that do not lead to a retainer?
2. Do you check for conflicts before a call/consultation where you expect to get confidential information?
3. If you receive confidential information in the course of a call/consultation, do you enter the names of all persons and entities involved into the conflicts database?
4. At the conclusion of an initial call/consultation, if no instructions are received to proceed, do you provide the prospect with a non-engagement letter which includes notice of any applicable limitation periods?
5. After a call with a prospective client, do you have an initial face-to-face meeting with the client in order to formally accept the matter?
6. Does the firm maintain a website?

If NO, go to question 7

If YES, please provide the URL of the website:

a) Does the website include a Terms of Use policy?

If YES, does the Terms of Use Policy include a Disclaimer of Liability?

b) Are users of the website made aware of the potential risks associated with use of the website including:

- i. Lack of confidentiality?
- ii. Use does not trigger lawyer-client relationship?

7. Do you have a blog or similar forum (whether in electronic or print format) where you discuss legal issues?

If YES, provide particulars:

--

8. Do you:

- a) Satisfy yourself as to the new client's identity immediately upon accepting a new matter?
- b) Satisfy yourself as to the purpose and objective of the retainer and make an appropriate note to file?
- c) Satisfy yourself that you are competent to handle the issues involved, or can become competent without causing the client undue cost, delay or burden?

9. Do you ask questions to determine if the client has capacity to give instructions?

10. Prior to accepting a new matter do you discuss your fees and billing practices with the client?

11. Do you obtain a written retainer agreement or otherwise confirm the terms of the engagement in writing when a client retains the firm?

Please attach standard/precedent retainer agreements/letters for each area of law that you practice

12. Other than a Legal Aid certificate, do you obtain a retainer agreement or other written confirmation of the retainer from clients funded by Legal Aid?

13. Does your firm accept contingency fee retainers?

14. Which of the following items are normally included in a written retainer? (Select all that apply)

- ☐ The nature and scope of the matter
- ☐ Any obligations to be fulfilled by the client
- ☐ The timetable or expected course of the representation
- ☐ The method and frequency of communication
- ☐ Fee/cash retainer arrangements
- ☐ Details regarding any division of fee arrangements, and the client's consent to same
- ☐ The manner in which a lawyer or client may terminate the retainer
- ☐ The use of agents/duty counsel for routine appearances
- ☐ Lawyer-client privilege
- ☐ The client's assumption of the risks associated with the use of email and texting
- ☐ The consequences of termination of the engagement

15. Are monetary retainers obtained from clients?

If monetary retainers are not always obtained, why not?

16. Is the amount of the retainer sufficient to cover estimated disbursements?

17. a) Before accepting a new matter, do you ensure that it will not place you or the firm in a position of conflict of interest?

b) Please describe the process the firm uses to check for possible conflicts of interest before accepting a new matter:

c) Please describe your role in the process used by your firm, or any additional measures you may use, to check for possible conflicts of interest before accepting a new matter:

d) Do you check for conflicts on an ongoing basis during the course of a matter (for example when new information is received, new facts learned or a new individual/entity enters the matter)?

e) Do files contain confirmation that a conflicts check has been completed?

18. If a client attends with another person, do you clarify whether or not that person believes that you are also acting for him or her?

19. When dealing with unrepresented persons on behalf of a client, do you ensure that it is clear that you are not representing them, and that you have discharged your obligations under Rule 7.2 - 9 of the *Rules of Professional Conduct*?

20. If you accept a matter where you will be acting for more than one client do you obtain "consent" as defined in Rule 1.1 – 1 of the *Rules of Professional Conduct* before you commence work on the matter, in order to comply with Rules 3.4 – 5 to 3.4 – 7 of the *Rules of Professional Conduct*?

21. Do you act for the vendor and purchaser in the same transaction?

22. Except where the lender is a lending client (as defined in the *Rules of Professional Conduct*), do you act for the lender and borrower in the same transaction?

If you have acted for lender and borrower in the same transaction, provide particulars:

--

23. Do you act for a lender or borrower in respect of private, non-institutional mortgages?

If you have acted for a lender or borrower in respect of private, non-institutional mortgages, provide particulars:

--

24. Do you receive any fees from a title insurer when your client purchases a title insurance policy?

If you do, provide particulars:

--

25. Do you act for both parties in the preparation of a domestic contract or separation agreement?

26. Do you accept mortgages or other collateral to secure fees?

27. Do you ever borrow from clients (excluding financial institutions)?

28. Do you send clients elsewhere to obtain Independent Legal Advice or Independent Legal Representation when necessary?

29. Do you ever provide legal services to an organization of which you are an officer, director or majority shareholder?

If YES, provide particulars:

--

30. Do you issue formal legal opinions in writing to your clients:

- a) When the matter is complex?
- b) When the client's position is precarious?
- c) When an unexpected development occurs?
- d) When the client's expectations are unrealistic?

31. Do you send your clients copies of pleadings and important correspondence?

32. Do you communicate to your clients all offers of settlement of litigation or, for criminal matters, offers of resolution from the Crown or Provincial Prosecutor?

33. Do you provide the client with a written explanation of the terms and implications of any such offer?

34. Do you obtain written instructions from your client on whether to accept such offers?

35. Do you have the client sign the minutes of settlement/settlement agreement?

36. Do you regularly (i.e., monthly/quarterly) update clients on the status of their file?

37. Are status updates provided to the client:

- a) Verbally?
- b) In writing?

38. Are verbal updates recorded in writing in the client file?

39. Do you keep your clients informed about new legislation or case law that may materially affect the course of the matter?
40. Are changes to clients' instructions confirmed in writing?
41. Do you send a reporting or closing letter to the client at the conclusion of each matter?
42. Do you check on the client's satisfaction with your professional services?
43. Do you or does your firm have a policy or procedure for dealing with client complaints regarding their file?
44. When a matter involves a client deadline, do you advise the client in writing that the client is responsible for ensuring that the deadline is not missed?
45. When a matter involves the renewal or registration of a document within the client's control, do you advise the client in writing that the client is responsible for the renewal or registration?
46. Do you read all correspondence and documents before signing and presenting them to the client?
47. Do your files evidence that you have confirmed with clients that they have reviewed draft documents in detail before they are signed?
48. Do you discuss with clients the risk of interception/unauthorized disclosure if they intend to communicate by electronic means?
49. Do you advise clients about lawyer-client privilege and privacy issues where they may share information with other advisors?

C. FILE MANAGEMENT

1. Where the client has retained you for more than one matter, is a separate file opened for each matter?
2. Do you, or does your firm, use a file opening checklist or intake form to set up your physical and electronic files?
3. a) Does the file opening checklist/intake form include the information that you are required to record in accordance with the client identification requirements of By-Law 7.1?

b) Where the new matter may involve receiving, paying or transferring funds which are not exempt under the client identification and verification requirements of By-Law 7.1, do you obtain verification of identity from the client (and make photocopies for the file)?

4. Are key dates noted in individual client files?

If you note key dates in individual client files, please describe the process:

5. In addition to a physical file do you maintain an electronic file?

Please describe which parts of your client's files are maintained solely in electronic files:

6. Do you organize your physical and electronic client files by placing contents into appropriately named sub-files?

7. a) Do you save sent and received emails to the client file or client email folder?

b) Do you have a system for reviewing, organizing and following up on email and phone messages?

8. Do you scan and save into the electronic file a copy of all important documents?

9. Do you remit a copy of the original or other important documents to your client, or scan a copy into your electronic file, to ensure that secondary proof may be made should the document be lost?

10. a) Is the material in physical files organized chronologically?

b) Is the material in physical files properly secured?

11. Do you document the client file of all material telephone calls with the client or third parties involved in the matter?

12. Do you document the client file of all appearances and meetings with the client or third parties involved in the matter?

13. Do you use checklists as part of managing the progress of files?

14. Is preparing wills and powers of attorney ("POA") part of your practice?

If NO, go to question 15

If YES,

- a) Do you use a detailed wills/POA questionnaire to determine the client's intentions and the particulars of all assets, liabilities, dependant relationships, beneficiaries and trustees?
- b) Does your firm retain the original will and POAs?
- c) Do you keep such documents in a locked and fire proof cabinet?
- d) Do you maintain a numerical and alphabetical list of wills and POAs?
- e) Do you have a policy governing the release of original documents?

15. Do you keep a list of your:

- a) Open files?
- b) Closed files?

16. Do you have a separate numerical index of all files opened and closed?

17. Are open and closed files cross-indexed for easy retrieval?

18. a) Do you have an alphabetical index of clients?

- b) Are the addresses and telephone numbers noted in a client/matter database or in some other form?

19. Does your firm have a systematic process for closing, securely storing and destroying files?

20. a) Does the file closing process include returning client materials, including those produced in court?

b) Does the file closing process include a final review to confirm that there are not any matters that have been overlooked?

c) Does your firm have a process for the transfer of file materials to other lawyers, clients or authorized third parties?

21. Are your active files kept apart from closed files?

22. Where are all your active files kept?

Describe:

--

23. Are inactive and closed files removed from the open filing system?

24. Where do you store closed files?

Describe:

--

25. Do you use a personal tickler/reminder system to track key dates such as limitations, deadlines to avoid administrative dismissal of civil actions, court appearances, filing due dates, closing dates, undertakings, advance reminders etc.?

26. Who else has access to such tickler/reminder system?

--

27. Does the firm have a centralized tickler/reminder system in addition to your personal system?

28. Do you utilize a bring-forward system to follow-up on undertakings, avoid limitation issues, ensure a response is sent or received and avoid unnecessary delays in the progress of client matters?

29. Do you regularly review the status of, and update, client files?

30. Do you review your files periodically to ensure that no active file is missing and that none has escaped your updating process?

D. FINANCIAL MANAGEMENT

1. Do you have a fixed hourly rate?

a) If YES, what is it? _____

b) Does your firm have a fee schedule setting out the hourly rates, block fees and disbursements?

If YES, please attach a copy of your fee schedule.

c) Do you accept Legal Aid funded clients?

What percentage of client files? _____%

d) Other than unpaid time on Legal Aid files, do you do *pro bono* work?

2. Do you keep a record of billable time?

If YES, is it:

a) Noted in the client's file?

b) On separate time sheets?

c) Immediately entered into the firm's accounting?

If not always, how many weeks behind are your entries? _____ (# weeks)

3. Are files interim billed?

4. Are monetary retainers replenished upon the issuance of interim accounts?

5. Does the firm keep track of overdue payment on accounts?

6. Do invoices provide detailed information?

7. a) Is interest charged on past due accounts?

b) If interest is charged, is this indicated clearly in the retainer agreement and in the statement of account?

8. Are invoices adjusted upwards or downwards to take into account the results obtained?
9. Are final invoices transmitted to clients within 30 days of termination of the retainer?
10. Are invoices delivered to the client after services have been rendered and prior to the transfer of fees from the trust account?
11. In the course of the last 3 years, have any of your fee bills been assessed by an Assessment Officer of the Superior Court of Justice?

If YES, provide particulars:

--

12. Are monetary retainers deposited in the firm's trust account within one business day?
13. Is a General Receipts and Disbursements Journal maintained?
14. Is a Referral Fees Journal maintained?
15. Is an accounting system used for monies and property received in trust?
If YES, does it include:
 - a) Client ledgers?
 - b) A Trust Receipts Journal?
 - c) A Trust Disbursements Journal?

- d) Particulars as to the purpose for which money is received or disbursed?
- e) A monthly Trust Reconciliation and Comparison?

16. a) Does the firm complete a monthly trust reconciliation and comparison within 25 days of each month end as required by Section 22 of By-Law 9?

b) Is the monthly trust reconciliation and comparison reviewed by the lawyer responsible for completing the Financial Reporting section of the Lawyer's Annual Report?

c) If the lawyer responsible for completing the Financial Reporting section of the Lawyer's Annual Report does not review the monthly trust reconciliation and comparison, please provide particulars of the person responsible for doing this:

d) Does the person who reviews the monthly trust reconciliation and comparison compare the firm's aggregate trust ledger balances to a formal account statement provided to the firm by the applicable financial institution?

e) Other than an individual licensed by the Law Society, does any person have:

- i. Online access to the firm's trust account; or
- ii. Authority to transfer any funds from any trust account?

If YES, provide particulars of the authority granted and the names and relationship to the firm of the person(s) involved:

17. Is the trust accounting system computerized?

If YES:

- a) Is a printed copy of the trust accounting maintained?
- b) Is a backup copy of the trust accounting maintained?

18. Are originals maintained of:

- a) Bank statements?
- b) Cashed cheques (or photocopies if cheques not returned by the bank)?
- c) Detailed duplicate deposit slips?

19. Who is authorized to sign trust cheques on behalf of your firm?

Names and titles:

--

20. Is a valuable property record maintained that identifies all non-monetary property held in trust?

21. Is the firm's bookkeeping entered and posted so as to be current at all times?

If not, how many weeks behind is it? _____ (# weeks)

22. Does the firm review the trust listing for client trust ledger account balances which have had no activity for some time (e.g., 12 months or longer) to ensure that appropriate action is taken on the file (e.g., returning funds to clients if the matter is closed, registration of outstanding mortgage discharges etc.)?

23. When your firm receives cash, is a receipt issued and signed by both the payor and a member of your firm, and does your firm retain a copy?

24. Are there an expected number of hours that you, or any lawyer you employ, must bill clients during the year?

If YES, how many hours are required per year? _____ hours

Describe:

--

IF YOU ARE AN ASSOCIATE OR EMPLOYEE, SKIP QUESTIONS 25-29

25. Do you have a business plan?

26. Does the office have an annual budget?

27. Are income and expense statements prepared?

28. Do you review the fee structure regularly?

29. Do you review the details of your present LawPRO coverage on an annual basis to assure yourself that your coverage (mandatory minimum and any excess coverage obtained) is appropriate and adequate having regard to the current circumstances of your practice?

E. TECHNOLOGY

1. What law practice specific software does your firm use (if any)?

Please list names of software:

--

2. Are all computers in your firm networked on a common server?

3. Is there a backup system for your computerized information?

If YES, please describe system:

--

4. Is backed-up information kept outside the office?

5. What is the frequency of backing up data?

- a) For onsite backup
- b) For offsite backup
- c) Cloud backup

6. Does the firm use measures to protect external devices and hardware, from theft/loss and to protect the integrity of stored information/documents (i.e., passwords, virus protection, etc.)?
7.
 - a) Are mobile devices (laptop, mobile phone, etc.) password protected?
 - b) Do such devices automatically log off?
8. Can your assistant pick up your messages (phone, email, mobile phone) when you are away or out of the office?
9. Can you check voice and email messages when you are out of the office?
10.
 - a) Can your staff reach you when you are not in the office?
 - b) Can they leave you a message?
11.
 - a) Are you aware of the security and privacy issues associated with the electronic land registration system?
 - b) Are you always in possession of your Teraview personalized security package?
 - c) Have you obtained a Teraview personalized security package for any of your staff members?
 - d) Have you shared your Teraview personalized security package with any other person?
 - e) Other than a backup have you made a copy of your Teraview personalized security package?

F. PROFESSIONAL MANAGEMENT

1. During the last calendar year, did you complete the number of hours of eligible Continuing Professional Development (“CPD”) activities required by Section 2 of By-Law 6.1?
2. Have you established a file for the retention of the CPD documents specified in Section 4 of By-Law 6.1?
3. Are you a member of any law or Bar Associations?

Provide details:

4. Have you recently reviewed the:
 - a) *Rules of Professional Conduct?*
 - b) *Practice Management Guidelines?*
5. Are you aware of the various CPD/CLE articles and resources available for free on the Law Society website?
6. Do you discuss with colleagues new legislation and case law developments that affect your practice area?
7. Are you aware, in order to maintain coverage, that you must give notice to LawPRO as soon as possible after learning of a situation which may give rise to a claim?

8. Are you aware that you will not be covered by professional liability insurance if you admit liability (to a client for an error or omission), without the consent of the insurer in writing?
9. Are you aware that your undertakings are enforceable even though they lack the consideration necessary to establish a binding contract?

G. TIME MANAGEMENT

1. How much time do you set aside for office management (i.e., day-to-day running of the office, attending to administration or business aspects of the office, accounting and filing requirements)?

Describe:

--

2. Do you maintain a "To Do" list?
3. Do you maintain a current active file list with a status column?
4. Do you use time dockets to record and report on non-billable time (for example CPD, business development, administrative tasks, non-billable time on client files so that effective billing rates can be determined on flat fee work)?
5. Does the firm have established targets and measurements to assess productivity and efficient use of human resources?

H. PERSONAL MANAGEMENT

1. In general, do you enjoy the practice of law?
2. What areas of your practice do you enjoy:
 - a) The most? _____
 - b) The least? _____
3. Are you satisfied with the growth and progress of your practice?
4. How many hours do you spend each week in the office, or otherwise, attending to work related matters? _____ hours
5. Do you have a network of colleagues with whom to discuss practice issues?
6. Do you take vacation?
How much? _____ week(s)
How often? _____
Date last vacation taken: Year: _____ Month: _____
7. Do you have concerns about areas of your practice and/or maintaining work/life balance?

If YES, please describe:

8. How do you manage the stress associated with the practice?

Describe:

9. Are you aware of the Members Assistance Program (Law Society website under Lawyers > Practice Supports & Resources) available to lawyers, and the services it provides?

10. Are you aware of the Coach and Advisor Network (Law Society website under Lawyers > Practice Supports & Resources), and the services it provides?

I. EMAIL COMMUNICATION

☐ I agree to receive by email all correspondence, Reports and other material, relating to my participation in the Practice Management Review Program, sent to me by the Law Society of Ontario.

Email address: _____

J. CERTIFICATION

To the best of my knowledge and belief, the information given in this form and in any documents attached is correct and complete.

Name (please print):	Law Society Number:
Signature:	Date:



SELF-AUDIT CHECKLIST

This checklist is a tool provided by the Wyoming State Bar for the small law office to help identify strengths and weaknesses of office management practices. It is designed for both lawyers and non-lawyer staff to complete, although non-lawyer staff may only be able to complete portions of the audit. Those completing any portion of the audit should be candid, so responses may vary between the lawyers and the non-lawyers. Use the results to foster a better mutual understanding of what goes on within the office. This knowledge will enable you take the requisite action to ensure that the office is managed properly.

Name of firm:

Members of firm:

Areas of practice:

The areas addressed are: Client Relations, Confidentiality, Conflicts of Interest, Docket/Calendaring, Records Management, Staff Management, Financial Management (Timekeeping-Billing-Budgeting-Financial Record-keeping and Reporting), and Professional Practice and Technology.

Please take a few moments to review all of the questions and make note of any areas that you would like to discuss more thoroughly. The last page allows space for your notes and clarifications. "YES" means all or most of the time; "NO" means never or rarely. We recommend that all employees in the office also complete this checklist.

CLIENT RELATIONS

The relationship with the client is a critical consideration for law office management. Everything that happens in a law firm has a direct or indirect effect on the client. The way a law firm conducts its business will also influence its relationship with its clients.

Law firms are often set up so that the critical element of administrative support is service to the attorney. The attorney, in turn, serves the client. Today, a client-centered law firm involves all personnel directly serving the client. The attorney is a team member involved in providing overall service to the client.

Examine your client relation efforts by asking the following questions:

	Yes	No	N/A
Do we return clients' phone calls and email within 24-48 hours?			
Do we perform all the work we told the client we would?			
Do we send follow-up letters after a meeting or telephone conversation in which new decisions have been reached?			
Do we complete the work in a timely fashion?			
Do we follow up with clients at least every six weeks even when their cases are inactive?			
Do we acknowledge staff members for good client relations?			
Do we ask the client for feedback as the matter moves along?			

CONFIDENTIALITY

Clients depend on their lawyer to safeguard the information they provide. The Rules of Professional Conduct provide for only limited situations where this trust may be broken. Since trust is very difficult to reestablish once it has been broken, it is important that you take steps to ensure that every member of the firm does all they can to safeguard client information.

	Yes	No	N/A
Do all new employees sign a confidentiality form acknowledging they have discussed confidentiality with you, read the relevant Rules of Professional Conduct, and will not breach the confidentiality of any client during and after their association with the firm?			
Do we make sure no client files or other confidential materials are ever left in the reception area or other public access areas?			
While conferring in person with clients, do we avoid taking calls or otherwise talking with other clients so as to protect client identities and confidentialities?			
Are the fax machines and copiers located away from where non-firm persons may be able to see confidential materials?			
If we are in an office-sharing arrangement, have we discussed confidentiality with the landlord, other tenants and any employees who may be privy to confidential information (e.g. receptionist, word processor, etc.)?			

CONFLICTS OF INTEREST

Many law firms rely on the staffs' collective memories to do their conflict of interest checks. This method rarely works accurately over any period of time. Every case handled cannot be so memorable that you will never forget every person involved. You should maintain a written conflict of interest system and keep it up to date. All staff members should be trained to use the system and conflict checks should be done prior to the discussion of any new matter with a client or potential client.

Examine the effectiveness of your conflict of interest system by answering the following questions:

	Yes	No	N/A
Do we maintain and continuously update a master client list of current clients, former clients, parties, employees and other individuals with cross references to files to facilitate researching apparent conflicts of interest?			
Do we get a signed waiver from the client if representation is requested after a potential conflict has been discussed?			
Do we request information regarding other names (i.e. maiden, marital, etc.) that potential clients and adverse parties may have used in the past?			
Do we properly identify and record information regarding the adverse party?			
Do we check our master list for conflicts of interest before accepting a client a new client or matter?			
If we do not accept a potential client' case, do we notify the client in writing?			

DOCKETING and CALENDARING

Missing a filing deadline or court appearance can be extremely damaging to a client as well as causing embarrassment and a potential malpractice claim for you. Each firm member should maintain an individual calendar in addition to a master calendar for the entire firm. Answer the following questions to determine how well you are doing in this area:

	Yes	No	N/A
Do we keep individual calendars, i.e. attorney and secretary/paralegal?			
Does your calendar include (as applicable):			
a) statutes of limitations?			
b) all court appearances?			

	Yes	No	N/A
c) client and other appointments?			
d) real estate closing dates?			
e) all self-imposed, discretionary deadlines (i.e., promises made to others, promises made to you and work deadlines you have set for yourself?)			
Do we maintain a master calendar?			
Do we have a good system for updating and maintaining each calendar in case of scheduling changes?			
Do we use reminder slips (tickler slips) to draw the attorney's attention to an upcoming deadline?			
If the calendar is maintained on the computer, do we frequently print out a copy to use in case of power failures			

RECORDS MANAGEMENT

The client file represents a record of the work you have performed for the client. It also represents one of the most frequently overlooked tasks in the office. Maintaining the files in an orderly manner that allows for efficient access to client information will save time and money in the long run. In addition, the ability to promptly respond to inquiries by having the information at your fingertips will enhance your professional image. "Clerical" does not mean "unimportant"--especially in a law office.

The following questions should help you determine the current status of your records management program:

	Yes	No	N/A
Do we have a standardized filing system for all client files?			
Are all materials filed timely and regularly?			
Do we follow a file retention schedule after a case is completed, i.e. when to close, when to review for destruction, what to return to client, what to keep and for how long?			

	Yes	No	N/A
Do we keep back-up media of electronic records off-site?			
Does each file have a log or diary of all the events of the matter including commitments to you and your commitments to others?			

STAFF MANAGEMENT

A large part of a client's impression of your law firm will come from the actions of your staff. It is critical to your success that your staff is well trained and motivated to provide excellent service to the firm's clients. Working in a law office is much more than just a job. A client's welfare is placed directly at stake by your choices.

Check your policies and procedures against the following list of questions:

	Yes	No	N/A
Do we have a current office policy and procedures manual and do we follow it?			
Do we sufficiently train our employees when first hired as well as when major procedural changes occur, e.g. automation?			
Do we train employees in the ethical requirements of working in a law office?			
Do we ask all employees to read the Rules of Professional Conduct?			
Do we offer our staff any continuing education opportunities?			
Do we keep staff members informed and give them an opportunity to offer input regarding matters affecting them?			
Do we properly supervise employees by reviewing their work?			

	Yes	No	N/A
Do we set a good example for our staff by creating, implementing, and monitoring dependable office policies and systems, (i.e., docket/work control, conflicts of interests, good documentation, etc.)?			
Do we express appreciation to employees for work well done and make sure any necessary criticism is shared privately, and in a timely and constructive manner?			
Do we clearly communicate expectations of performance to all firm employees?			
Do we encourage and motivate employees to take pride and ownership in their work?			
Do we provide support and assistance for staff members in the handling of disrespectful, rude and otherwise out-of-line clients and others?			
Do we keep our staff informed as to our whereabouts and schedule?			
Do we provide a "safe" office environment? This question refers to both the physical space as well as the office culture that allows for the questioning of the work by anyone before it leaves the office without feeling that his/her competence is being challenged?			

FINANCIAL MANAGEMENT

Timekeeping, billing, budgeting and financial record keeping and reporting are included under the financial management umbrella. All of these activities should be coordinated to produce an efficient accounting and record-keeping system. Mastering the elements of financial management should give you a sense of control over the direction your firm.

Timekeeping:

	Yes	No	N/A
Do we have documented timekeeping procedures?			
Do we train all timekeepers in proper timekeeping methods?			
Is time recorded at the time the work is performed?			

Billing:

	Yes	No	N/A
Are all expense disbursements posted to clients' files on a regular basis?			
Are all internally incurred expenses (postage, long distance, etc.) posted to clients' files regularly?			
Are all payments and credits posted to clients' files regularly?			
Are all entries reviewed for accuracy?			
Are all bills reviewed and approved?			
Are bills sent out on a regularly scheduled basis?			
Are the accounts receivable evaluated and followed up on regularly?			
Are client trust funds kept in an IOLTA or other bank trust account, separate from operating funds in the operating account?			

Budgeting:

	Yes	No	N/A
Do we have a budget?			
Do we compare actual results to the budget on a regular basis?			

Financial Recordkeeping and Reporting:

	Yes	No	N/A
Do we prepare tax returns timely?			
Do we have cash handling, and accounting checks and balances in place, i.e, division of responsibilities?			
Do we generate monthly or other regularly-scheduled financial reports?			
Do we share the firm's state of well-being with everyone in the firm?			

PROFESSIONAL PRACTICE (STAFF RESPONSES NOT NECESSARY)

These questions relate to several of the details of how the lawyers handle daily events on client matters. Your standards of care should be consistent and timely-that can be difficult with many interruptions.

	Yes	No	N/A
Do I give legal advice over the phone if I am not familiar with the client?			
Do I have a designated back-up attorney for my files?			
Do I regularly go to CLEs in my specialty?			
Do I discuss the recommended course of action with clients at a time and place conducive to a good exchange of information and questions?			
Do I document the client's choice of action and so inform the client in writing?			
Do I have a system to follow up on assignments given to others in the office?			
Do I have a system for notifying clients of the results of motions on their cases and so document the file?			

TECHNOLOGY

Office technology is nothing more than the tools to best serve your clients. The challenge is to have the knowledge to use these tools fully. Indeed, it may soon be that a lawyer's professional competence will include the use of technology to benefit clients.

	Yes	No	N/A
Do all our lawyers and staff use computers?			
Do we use a networked (if applicable) calendar program?			
Is everyone trained to usefully use our software?			
Is the office locked every night to discourage theft?			
Do we use case management software?			
Do we use email with client permission?			
Is our e-mail marked "Confidential Privileged Communication?"			
Do we back up our data at least weekly?			
Do we attempt periodic "restores" of data (to check if it works)?			
Do we train new employees about our computer system?			
Do we use computer virus filters and a firewall?			
Does our voicemail tell callers to limit their message?			
Do we need a password to access data?			
Do we have confidentiality agreements for cleaning services, contract staff and computer maintenance vendors who have access to our computer systems?			