End-Of-Year Risk Management Assessment

A Best Practices Sidebar

As 2011 comes to a close, it's a good time to look with a critical eye at your risk management policies and procedures and implement necessary changes. Well-designed and consistently followed procedures can lower the risk of malpractice claims. To help begin the process, consider asking yourself the following questions:

- Are formal policies and procedures in place to guard against each of the following risks:
  - ☐ Conflicts of Interest
  - ☐ Missed Deadlines
  - ☐ Unintentionally Established Attorney/Client Relationships
  - ☐ Accounting Errors (related to trust accounts and billing)

  Formal policies and procedures help to ensure that all attorneys and staff in the law firm are on the same page. Even if your firm cannot afford software to standardize these processes, the firm should have formal written guidelines outlining how to manually assess each matter for risks and to properly document.

- Are all employees of the firm (including new employees) fully aware of all of the firm's policies and procedures?

  Don't forget to review all firm policies and procedures as a formal part of every new employee's training.

- Are all policies and procedures being followed consistently by everyone in the firm, on each and every matter?

  Consider routine audits to confirm that the policies and procedures are fully understood and followed by everyone in the firm.

- Are records of former and current clients up to date? Have disengagement letters been sent to every client that is listed as a former client?

  Running conflicts checks against a database of old information can put your firm on very dangerous ground.

- Are files containing confidential client information protected with adequate security?

  Make sure your staff knows to not leave client files on their desk after they are done with them.

- Are communications with clients carefully documented in writing for each matter?

  Consider developing a checklist for the front of each file so that you can check off each item that should be in it.

- Is a consistent procedure in place for client intake? Could a checklist be added so that critical procedures are not forgotten?

  Intake best practices include consideration of: your competence in the matter, conflicts of interest, the client's ability to afford your services, client expectations, the client's history with attorneys.

- How can client relations practices be improved and followed by everyone in the firm, including members of non-lawyer staff?

  Advise staff on your expectations regarding how they should communicate with clients. Let them know that they are a vital part of the firm's client relations efforts.

- Is there a policy in place for assisting any employee of the firm struggling with stress or substance abuse?

  Consider having a point person and make sure everyone knows who to go to during a crisis.

Tip Jar

- Attorney Protective is busy planning TEN Free webinars for 2012! CLE will be applied for in numerous states for our webinars. Look for a full list of them to be posted in January 2012 at www.attorneyprotective.com/webinar.
- The American Bar Association recently issued Formal Opinion 11-458 regarding when an attorney is permitted to change fee arrangements during a matter. You can find the full formal opinion on the ABA website by searching by the opinion number.
- Feeling overwhelmed by the amount of things that you have to do in your work and personal life? Check out this website that is all about how to - in their own words - "get things done" www.davidco.com