

Start a Peer Review Program

By Anne E. Thar, Vice President and Corporate Counsel

Today's lawyer is faced with long hours, demanding clients, increasing costs, and shrinking revenues. In the face of these pressures, it can be hard to provide high quality legal work day-in and day-out. One way to maintain the quality of your service and lessen malpractice risk is to establish an effective peer review program and use it faithfully.

The concept of peer review is simple — your work product is reviewed by a fellow lawyer. Under most peer review programs, one partner reviews the work of another. Regardless of who does the reviewing, any effective review follows the same basic steps.

First, randomly select three to four matters that have been completed over the past year. Use billing statements, time entries, docket calendars, or conflict checks to identify files. Next, have the entire file reviewed by the designated peer. The review should focus on the following items:

1. Conflicts check. Make sure the file shows that a conflict check was performed and documents and any waivers obtained.

2. Engagement letters/agreements. Determine whether the scope and terms of the engagement, including fee arrangements, were agreed upon in writing by the parties.

3. Organization and documentation. Examine the file as a whole to determine whether it is well organized and adequately documents the services provided. In particular, check for the following:

Research. Does the file contain a record of legal research performed (e.g., copies of Westlaw or Lexis searches, handwritten notes on the treatises consulted, citations to cases



Make yourself a better lawyer and reduce malpractice risk by having a colleague review your files.

reviewed, etc.)?

Drafts. Does the file contain a record of revisions made at the client's request or during negotiations?

Checklists. Did the attorney use checklists to make sure that all details were covered, including post-closing matters such as filing security interests or changing beneficiaries on insurance policies?

4. Client communication. Does it appear that the client was kept fully informed of the progress on the matter and consulted on all major decisions? Did the client receive copies of all significant documents, including key pleadings? The file should also contain the client's written and informed consent to the ultimate resolution of the matter.

5. Timeliness. Were the services performed within the time frame

promised?

6. Satisfaction with performance and fees. Were the services set forth in the engagement letter performed at the agreed-upon price?

7. Closure letter. The file should contain a letter informing the client that the representation has ended and describing how the matter was resolved. The letter should specify anything that the client or a third party has yet to do to finalize the transaction or case.

8. Client dissatisfaction. Any sign of client dissatisfaction should be recorded for later analysis.

The final phase of review is the exchange of ideas and suggestions between peers. The analysis should focus on ways to improve service to the client. Remember that the peer review process is just as helpful to the reviewing as the reviewed attorney — for example, the file may contain a good checklist that the reviewing attorney hasn't seen.

On rare occasions, peer review uncovers such serious problems as substance abuse, fraud, or conflict-ridden relationships between attorney and client. Once brought into the light, these problems may be addressed properly.

Peer review for solos

Sole practitioners can also use peer review. Ask a respected colleague to review your work in exchange for reviewing his or her files. Attorneys in small communities who are reluctant to let a local lawyer review their files can turn to a colleague from a different county or community. Membership in ISBA and other bar associations can provide access to peers who practice elsewhere.

Also, some businesses perform firm audits for a fee. They often employ experienced attorneys to conduct the audits. These firms typically audit not only your working files but your docket and conflicts systems as well.

Finally, peer review can be expanded to include reviews of partners by

associates/staff and reviews of the firm by its clients. Some firms routinely send out evaluation forms to clients after the representation. After all, the client is your best source of information on the quality of your practice. Other attorneys send evaluation forms to their most valued clients,

with a cover letter stating that their response will help the firm better serve their needs. Lawyers who make a commitment to thorough, annual peer reviews will improve the quality of their practice, better serve clients, and reduce the likelihood of a malpractice claim.