

# ***ETHICS CHECKLISTS FOR SOLO AND SMALL FIRM PRACTICE***

## ***ABA Standing Committee on Professional Discipline***

The following checklists and Web links are intended to provide information for solo and small firm practitioners to help avoid the pitfalls that can occur in a busy law practice.

- ✓ To locate and review the ethics rules for your jurisdiction and others, you can go to the ABA Center for Professional Responsibility's page of [state links](#). If you have a question about the ethics rules' application in specific situations, the same page provides links to state ethics opinions and ethics hotlines telephone numbers. Or you can contact the ABA Center for Professional Responsibility's [ETHICSearch Research Service](#) at 800-285-2221 (option 8); Fax: 312-988-5491 or email: [ethicsearch@staff.abanet.org](mailto:ethicsearch@staff.abanet.org).
- ✓ [Top 10 Ethics Traps for Lawyers](#) by Stephanie Frances Ward from the November, 2007 issue of the ABA Journal also offers access to a free audio CLE program you can download.
- ✓ "Do's and don'ts" for getting clients are summarized in the misnamed [Five Tips for Lawyer Advertising: From Billboards to Blogs](#) (Your ABA, March 2008)
- ✓ [Quick and Easy Ethics Tips](#) by Kathryn A. Thompson and Angela Baluk's excellent list of straightforward tips in [Professional Responsibility Reminders](#) \* are included as part of the ABA Young Lawyers' Division [The 101 Practice Series: Breaking Down the Basics](#).
- ✓ The [ABA General Practice, Solo and Small Firm Division](#) provides a wealth of information about starting and running a law practice. Included is Jay G. Foonberg's classic [How to Start and Build a Law Practice](#), now in its 5th edition. Here's a [link](#) to his *Ten Rules for Avoiding Disciplinary Complaints*.
- ✓ Cydney Batchelor, who is a California State Bar prosecutor, wrote [Disciplinary Actions: When Bad Things Happen to Good Lawyers](#) for the GPSolo Magazine of October/November, 2006. The article contains a checklist for avoiding problems in the first place and advice on what to do if your state's disciplinary agency contacts you with a complaint. The same issue of GPSolo Magazine has a good article on [From Disciplinary Action to Recovery: ADPs and LAPs](#) by Paul J. Virgo, formerly with the State Bar of California, on the connection between substance abuse and discipline.
- ✓ The focus of the January/February 2008 issue of GPSolo Magazine is [The Care and Feeding of Clients](#). While not an ethical mandate (unless viewed as a component of the duty of competence under Model Rule of Professional Conduct [1.1](#)), good client relations are of immeasurable value in preventing disciplinary complaints. Most complaints (perhaps as many as 90%) are dismissed by disciplinary agencies because they do not involve ethical violations. But they often do involve poor client relations.
- ✓ A key component to good client relations is good communication. Good communication **is** an ethical mandate under Model Rule [1.4](#). Betty Adams lays out the basics of good client communication in her excellent article [Client Communication and Contact](#).
- ✓ If you handle any client funds at all, you must keep them separate from your money and in a client trust account. See Model Rule of Professional Conduct [1.15](#) (all property of clients and

third parties must be kept separate from the lawyer's business or personal property). You must account for these funds. The Minnesota Office of Lawyers Professional Responsibility provides [Frequently Asked Questions about Trust Accounts](#). Be sure to review your state's specific requirements on client property and funds. See, e.g., the Illinois Attorney Registration and Disciplinary Commission's [Client Trust Account Handbook](#)

- ✓ If you're a solo practitioner (or even if you're in a firm), you need to prepare for death and disaster. The ABA Standing Committee on Ethics and Professional Responsibility's [Formal Opinion 92-369](#) on Disposition of Deceased Sole Practitioners' Client Files and Property (December 7, 1992) recommends planning for death:

*To fulfill the obligation to protect client files and property, a lawyer should prepare a plan providing for the maintenance and protection of those client interests in the event of the lawyer's death. Such a plan should, at a minimum, include the designation of another lawyer who would have the authority to review client files and make determinations as to which files need immediate attention, and who would notify clients of their lawyer's death.*

- ✓ And finally, if you receive a notice from the disciplinary agency, see Jane H. Herrick's [How to Handle a Bar Complaint](#) from the July 2000 issue of The Young Lawyer. This article can help you focus on responding to the matter in a manner that is thoughtful and organized.

\* See also [Sample Engagement Letters and Fee Agreements](#) by P.A. Henrichsen (GP Solo, Jan/Feb 2007)

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This document has not been approved by the ABA House of Delegates or Board of Governors and does not constitute the policy of the American Bar Association. Lawyers are governed by the rules of professional conduct adopted in their own jurisdictions and must consult those rules. This document is not intended to be an exhaustive discussion of the ABA standards relating to a lawyer's professional conduct. However, it is intended to alert lawyers to some common problem areas which can result in disciplinary action.

Nothing contained herein is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel.