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**THE FUNDAMENTALS
OF LOSS PREVENTION
FOR LAWYERS**

Employee Training

Employee Training

A successful risk management program requires the participation and commitment of your entire office, including lawyers, paralegals, secretaries, clerks, receptionists, and the office manager. These individuals assist the lawyer in providing legal services to the client and all of them have the power to enhance or impede your representation of a client.

Law firm partners and supervisors are required to make reasonable efforts to ensure that other lawyers conform to the [Illinois Rules of Professional Conduct](#) Rule 5.1. With respect to non-lawyer assistance, reasonable efforts must be made to ensure that the person's conduct is compatible with the professional obligations of the lawyer (Illinois Rules of Professional Conduct Rule 5.3).

Explain the Goals of Loss Prevention

In training office personnel on loss prevention procedures, start with a basic discussion of loss prevention as a concept. Inform your employees that a great percentage of all legal malpractice claims arise not out of substantive legal errors but from administrative errors and client relation problems. Give them some tangible examples of administrative errors which can cause malpractice claims: missed statutes of limitations, undetected conflicts of interest, misplaced files, inadequate billing procedures, or the lack of a written fee agreement or disengagement letter, to name a few. Explain to them the enormous economic and emotional cost to a firm which is faced with a malpractice claim, even when insurance coverage is available.

Discuss the Ethical Rules

Don't forget to properly educate your non-lawyer employees regarding the Illinois Rules of Professional Conduct, including the importance of client confidentiality and avoiding conflicts of interest. Consider giving the support personnel highlighted copies of the Illinois Rules of Professional Conduct to read and review; it will foster a better understanding of the unique duties and responsibilities imposed upon lawyers and will help the employees assist lawyers in meeting those duties. Make sure that paralegals and the lawyers who work with them understand the Illinois Rules of Professional Conduct Rule 5.5 regarding the unauthorized practice of law. Implement a system to check the tasks performed by paralegals and other office employees to ensure that they are adequately supervised and are not overstepping their authority.

Train Your Employees on Office Procedures

Once you and your employees have discussed the significance of risk management, there are several specific areas in which to train your employees, including:

- calendaring procedures;
- filing procedures, including the importance of weekly filing and copying the client on all documents and correspondence;
- conflicts of interest procedures;
- telephone etiquette and maintenance of telephone records;
- billing procedures;
- client relations, including scheduling meetings to avoid long delays or cancellations and maintaining a professional attitude and atmosphere in the workplace at all times.

For more information on all of the above, download the full ISBA Mutual Insurance guide ***The Fundamentals of Loss Prevention for Lawyers*** on our website www.isbamutual.com.

You should also encourage your employees to make suggestions or report any perceived problems with existing procedures or personnel and to whom they should direct such observations. The employees may know that a particular lawyer chronically neglects to check for conflicts and/or misses appointments. Furthermore, you may be surprised by your support employees' ideas for improving office administration and risk management.

Cross-Train Employees or Have a Backup Plan

While it is a mistake to exclude your non-lawyer employees from the firm's loss prevention program, it is equally dangerous to rely too heavily on any particular employee in implementing the program. Even the most conscientious, hard-working assistant will take a vacation, call in sick, or move on to another position. For example, ***a calendaring system that relies solely on the dedication of one individual is a malpractice claim waiting to happen.***

It is particularly important in smaller offices to cross-train employees so that if one employee is ill or leaves the job, the work can be finished. Remember that the key to a truly successful loss prevention program depends upon a system of checks and balances; there should be safeguards built into the system so that if one person drops the ball, another one can pick it up. In short, ***loss prevention is a team effort.***

Employee Training Do's and Don'ts

Do...

- ✓ Include all employees in your loss prevention program.
- ✓ Cross-train employees and have a plan for emergencies.

Don't...

- ⊗ Assume your employees understand your ethical obligations.
- ⊗ Forget your obligations for non-lawyer employees.

To download our entire guide, ***The Fundamentals of Loss Prevention for Lawyers*** or to access Sample Letters & Forms, visit our website www.isbamutual.com.

Disclaimer

This booklet includes loss prevention techniques designed to reduce the likelihood of being sued for legal malpractice. It is not the intent of these materials to suggest or establish practice standards or standards of care applicable to a lawyer's performance in any given situation. Rather, the sole purpose of these materials is to assist lawyers insured by ISBA Mutual in avoiding legal malpractice claims, including meritless and frivolous claims. To that end, the intention is to advise lawyers insured by ISBA Mutual to conduct their practice in a manner that is well above the accepted norm and standards of care established by substantive legal malpractice law. The recommendations contained in these materials are not necessarily appropriate for every lawyer or law firm and do not represent a complete analysis of each topic.

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