Effective Legal Office Administration Lesson 2 – The Law Office



The Law Office LESSON 02	

The Law Office - Overview

- Ethical Considerations
- Maintaining Integrity
- Getting to Know the Law Office
- Client Relations
- Dealing with Incoming and Outgoing Mail
- File Management
- Computers in the Law Office

- Attorneys are required to adhere to Codes of Ethics provided by their state or by the federal courts.
 - · These are often referred to as the Rules of Professional Responsibility
- These are NOT guidelines, they are standards that must be adhered to or the attorney risks losing their license to practice.
- An attorney (or group of attorneys) within the law office is responsible for the non attorney employees to ensure they also abide by the Rules of Professional Responsibility that apply.
- Legal secretaries, legal assistants, and paralegals are included in this group of employees.

- The American Bar Association has published Model Rules of Professional Conduct.
- Many states have adopted the ABA Model Rules; some with modifications.
- The Model Rules may be found at:
 http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct.html
- Some of the rules speak directly to non attorneys. You should be aware of the rules as they apply in your state.

- Rule 5.3 Responsibilities Regarding Non-lawyer Assistance
- With respect to a non-lawyer employed or retained by or associated with a lawyer:
 - (a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
 - (b) a lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and ...

- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.
- To ensure you do not harm the law firm in any way, the professional legal secretary will read and understand the Rules of Professional Conduct for the state in which they work.

- Attorneys are required to maintain current with court rules and procedures.
- The legal secretary must always remain current with court rules and procedures. Failure to do so may cause a delay in a clients case and may even subject the attorney to reprimands which may include disbarment.
- The legal secretary should develop a rapport with the court clerks in the various courts they will be working with. This informal relationship may be of great value to the law firm.



- The legal secretary is routinely exposed to confidential matters that concern clients.
- This information must be kept confidential and not inadvertently revealed to a third party.
- Client communications with their attorney are considered privileged communications, not subject to discovery or otherwise disclosed.
- If clients communicate with you within the scope of their representation, the privilege is extended to you.

- If authorized by the lawyer for whom you work, you may interview
 individuals who are not represented by a lawyer. If the unrepresented
 person does not understand your role, you should make a reasonable
 effort to explain who you are and who your office represents. If this person
 does not have a lawyer and if his or her interests might be in conflict with
 the firm's client, you cannot give the person any advice except to secure
 an attorney.
- If the opposing party has a lawyer, you cannot talk to that party about the
 case, nor should you interview persons whose statements are binding on
 the party. For example, if your office represents a man who is suing his
 former employer, XYZ Corporation, because he believes his retirement
 benefits are being wrongly withheld, you cannot talk to the XYZ officer who
 is in charge of employee benefit programs.
 - There are some exceptions to this rule if you have questions, talk to the lawyer for whom you work.

Unauthorized Practice of Law

- Legal assistants may engage in any law-related service at which they are competent so long as they do not engage in the unauthorized practice of law.
- The unauthorized practice of law (UPL) is the practice of law without a current law license.
- The unauthorized practice of law is NOT DEFINED; the court will determine if UPL has occurred.
- The UPL is a CRIMINAL event in many states.

Unauthorized Practice of Law

- A non-lawyer may not sign papers to be filed with the court, ask questions at a deposition or handle court appearances.
- Questions about limitations on the non-lawyer's role also frequently arise when the non-lawyer has developed rapport with a client of the firm. At this point, the firm's client may begin to ask questions like, How do you think my case is shaping up? or What do you think my chances of recovery are? or Can I reimburse my travel expenses out of the estate? What should I do about such-and-such? When a client of the firm begins to seek advice along these lines, refer the questions to the lawyer for whom you work.
- Correspondence
 - A non-lawyer may not in any way represent herself or himself as a lawyer. A
 letter on law firm stationery signed by a non-lawyer could be misleading. Ask
 the lawyer for whom you work how to identify yourself on correspondence;
 you may be asked to use a description such as Secretary or Legal Assistant
 beneath your signature so that your position in the office is clearly set forth.

Confidentiality

- When discussing matters related to your office or your firm's clients with other office employees, be careful not to do so in public areas of the office where outsiders may be present
 - (e.g., reception areas, hallways) or in areas outside the office where conversation might be overheard (e.g., elevators, restaurants).
- You may, on occasion, have contact with attorneys outside your firm on matters which your firm is handling. In those cases, you should not provide any information (including either disclosing the contents of documents or releasing the documents themselves) or make any agreements unless an attorney from your firm has approved it.
- If you are not sure, offer to check and get back to the outside attorney.
- Keep in mind that if you work with companies that are publicly traded, Federal law, and the ethical rules prohibit you from disclosing certain information from using information in connection with any financial transaction including the purchase or sale of any stocks, bonds or other security.

- Experienced legal assistants gain a great deal of knowledge of the law within certain practice areas. They learn the answers to many common client questions.
- It becomes very tempting to answer client's questions, many times thinking they are helping the attorney.
- Answering these questions may be considered as giving legal advice which is likely to be considered the Unauthorized Practice of Law.
- The proper response is to refer the client to the attorney for an answer. If you are not sure whether you may be committing UPL, then be cautious and presume that you are.

The Basics

- A law office is a business. They function to make money by operating at a profit which results in earning money for their owners.
- The legal secretary must have basic secretarial skills required of any business. It is the addition of specific legal knowledge that makes one a legal secretary.
- Law offices take many forms; however, they all have one fundamental goal providing legal services to clients.

The Basics: The Legal Team

- The legal team in a solo or small law office may consist of the attorney(s) and legal secretary.
- A large law firm legal team may consist of several people, such as:
 - Attorneys
 - Administrators
 - · Law Clerks
 - Librarians
 - · Legal Assistants
 - · Legal Secretaries
 - · Other third parties, such as:
 - Investigators
 - Consultants
 - Expert Witnesses



The Basics: Types of Law Practices

- · Corporate Law Practice
 - · A department within a corporation known as "in-house counsel"
 - · There is only one client: the business itself
 - Few administrative functions: they are handled by other departments
 - · No billable hours
 - · Often uses "outside counsel" for litigation
- · Government Practice
 - · There is only one client: the government entity
 - · Represents the interests of administrative agency they are attached to
 - States municipalities have attorneys to represent the state in criminal cases
 - · No billable hours
 - · May require testing to be employed as a legal secretary

The Basics: Types of Law Practices

- · Legal Aid Office
 - Not-for-profit normally offering free or low cost legal services
 - · Limited practice areas; normally family law, bankruptcy, landlord-tenant
 - · Public defenders' handle criminal cases for low-income clients
- · Private Law Practices
 - · Generates income through client representation
 - May be any size, but common terms are:
 - · Sole Practitioner 1 attorney
 - Small Firm fewer than 20 attorneys
 - Medium Firm has 20 to 75 attorneys
 - · Large Firm has 75 to hundreds of attorneys
 - Mega Firm 500 or more attorneys

The Basics: Sole Practitioner

- · An attorney who individually owns and manages the practice
- · May have employees such as legal secretary and other attorneys
- · Ultimately responsible for everything that happens in the law office
- · Typically generalists, handling cases in several areas of law
- · Responsible for office management
 - This is normally an issue as this takes time away from the practice of law
 - The legal secretary often become the person responsible for office management
 - The legal secretary often may become involved in many areas of the case and gain knowledge in several areas of law
 - Many new legal secretaries begin in a solo law office to gain experience and knowledge

- Customer service skills (client relations) are critical to the success of a law practice
- A major complaint from legal clients is a lack of communications about their case
- The ability to effectively communicate ideas is a critical skill required of the legal secretary
- There is a rule that governs the duty to keep clients informed
 - Rule 1.4 of the ABA Model Rules of Professional Conduct
- Communicating with the client is not just with written correspondence, but also with telephone calls
- An accurate written record should be made of all client contacts, thus the preferred method of communication is written

- The attorney (thus the legal secretary) has a duty to:
 - · Inform clients of the status of their case
 - · Timely respond to a client's request for information
 - · Inform clients promptly about important information
 - · Not cover up a failure to carry out the client's instructions
 - Inform client if they are leaving a firm or stopping work on their case
 - Explain the law regarding their case
 - · Inform clients of all alternatives to include risks and benefits
 - · Immediately communicate all settlement offers

- As a legal secretary, you are the one clients will speak with most often
- You have an opportunity to build rapport with the clients that presents a positive image of the law firm
- The client always comes first; their payment of fees provides your salary
- Clients may or may not know the law; however, they do know:
 - · If calls are not being returned
 - If correspondence is poorly written with grammatical errors
 - · If deadlines have been missed
 - · If they are being treated respectfully

- You can foster a good relationship with the client by:
 - Knowing your client; build trust, be empathic, show interest in case
 - Treat each client as if they are the only client
 - · Send copies of all documents to the client
 - Talk with the client in layperson's terms, not legalese
 - · Return phone calls and emails promptly
 - · Always be courteous and professional
 - Respond to requests made by clients
 - · Always keep promises you have made



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- · You can foster a good relationship with the client by:
 - Give client periodic updates on their case, even if nothing has changed
 - Never share personal information or complain to client
 - · Always preserve client confidences
 - You may want to develop a client survey for feedback on services
 - · Attempt to ensure the attorney(s) keep abreast of client relations
 - Always make sure there are no conflicts of interests within the office
 - · Always act in an ethical manner
 - · Complete assignments immediately, never procrastinate

- · Handle client complaints immediately by:
 - · Listening to the complaint
 - · Do not interrupt as the client explains the issue
 - · Do not argue with the client
 - · Assure client you will pass along the complaint to a responsible party
- Let the attorney handle the complaint, never make a promise of your own
- · Take notes of the issue to pass to the attorney
- Never ignore any complaint, even though some clients always complain
- · Recognize a personality conflict and work it out

- The preferred method of legal communications is written
 - · This may be legal forms
 - · This may be written correspondence in the mail
 - This may be electronic correspondence such as email
- Communication is effective only if the receiver fully understands the message being conveyed by the sender
- The best way to ensure effective communication is through client feedback
- · There are several barriers to communication to consider

- · Barriers to effective communication include:
 - · Different backgrounds
 - · Different perceptions of the law and the case
 - The amount of information available to each party
 - Differing personal needs
 - Assumptions made by either party
 - · Differing cultures
 - A person's status in the community, their age, their race
 - The educational level of the client

- Incoming Mail Procedures
 - The legal secretary should open all mail to preserve client confidentiality
 - The mail should be date and time stamped unless an original legal document; in that case, a copy should be made and the copy should be date and time stamped
 - · Sort the mail into three categories:
 - · Client and case related materials
 - · Legal periodicals, updates to court rules, etc.
 - · Junk mail
 - All legal updates should be properly posted to the related materials

- Incoming Mail Procedures (continued)
 - Client and case related materials should be matched to the client and/or case file
 - · Look at correspondence for dates of importance
 - · Calendar and/or docket the dates as required
 - If available, scan the correspondence and email a copy to the appropriate attorney
 - Place the original correspondence properly into the client/case file

- · Outgoing Mail Procedure
 - · Ensure all mail is properly signed
 - Ensure a copy is sent to the client, along with the other appropriate recipients
 - Ensure a record of mailing, with the date of mailing, is recorded in the client/case file (or outgoing mail log if one is used)
 - Ensure a copy of the outgoing correspondence is in the client/case file
 - Deliver the mail to the appropriate location, whether it is the mailroom, outgoing mailbox, or other usual drop off location

- · Handling E-Mail Incoming and Outgoing
 - · Many firms now utilize e-mail for correspondence
 - · You should request that you be included on all e-mails
 - On receipt of an e-mail, it should be printed in its entirely to show sender, recipient, dates and times
 - · A copy should be placed in the client/case file
 - · Check for and calendar or docket all important dates
 - · Forward to the appropriate attorney if needed
 - In an electronic case management system, this process may be automated and scans/printouts may need to be in a specific format

- · All legal offices require a file system
- The system must allow for the storing, tracking and retrieval of information in an efficient manner
- Attorneys must document their case extensively, not only for trial purposes but also for client purposes
- Information that is gathered but is not retrievable is of little value to the attorney



- An effective file management system:
 - Is complete (all information, however gained, is included)
 - Is archived properly (according to legal requirements)
 - Is easy to use (with little training and available to all staff)
 - Is secure (unauthorized access is prevented)
 - Is adaptable (can be easy adjusted as the needs of the firm change)

- · Each client should have their own master file
- Each client may have multiple cases; however, each case should have its own file under the master client file
- The file system may be alphabetically or numerically based; however, you should use only one system
- Some office will use bar codes to handle the files. Files are checked in and out by the bar code, thus files are easy to track.
- Many firms, even small ones, now use electronic case management systems
 - These can easily become cluttered with unfinished or outdated documents
 - · Always ensure you have the latest version of a document

- There must be a standardized procedure for opening new files
- A new file must be opened immediately when a new client is retained or a new case for a current client is started
 - Ensure any materials received or generated prior to formal retention or the beginning of the formal case are entered into the file
- Client files will normally contain information about the client in general to include a master client accounting
- · Case files are sub-files within the client file

- Case files normally have sub-sections, common ones are:
 - · Correspondence with Attorneys
 - · Correspondence with Client
 - · General Correspondence
 - · Notes and Miscellaneous
 - Discovery
 - · Deposition Summaries
 - Witnesses
 - Evidence
 - Investigation
 - · Legal Research
 - Memorandums

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File Management

- · Rules to be aware of:
 - All documents provided to the attorney by the client are the clients property and must be offered back to the client at the end of the case
 - When a client fires an attorney, the case file must be turned over to the client
 - · What needs to be turned over is determined by ethical rules; and
 - · The case law in each state
 - The rule of thumb is to turn over all items the new attorney would find necessary to reasonably handle the case
 - · The base rule is to hold case files for five years before destruction
 - · The confidentially rules apply to closed cases

- Technology has changed the law firm forever
- Many courts currently require electronic case filing and management; many other states are making this mandatory
- The Federal Rules of Civil Procedure and many state court rules on civil procedure now include guidance on the use of electronic data
- Most legal offices now use some form of electronic case management and accounting programs

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- Examples of the use of technology in the legal office:
 - Word Processing
 - · Time and Billing
 - Accounting
 - Calendaring
 - Trial Presentation
 - · Document Scanning
 - E-mail
 - Online Collaboration
 - · Online Promotion and Marketing



- DANGER while many attorneys use laptop computers, this raises a very serious security issue
 - · Many laptops are stolen
 - If client information is on the stolen laptop, this could be a breach of ethical standards under the Rules of Professional Conduct
 - · Consider encrypting all legal information
 - · Use complex passwords
 - · Only use encrypted network connections
- If you do any work with a laptop computer, such as in the court room, make sure you are aware of the security risks noted and follow safe security practices

- · Law Office Applications
- · Office suites are common, such as Microsoft Office
 - These are generic applications
- Specialty Applications designed just for the legal practice
 - · Office Management
 - · Case Management
 - Litigation Support
 - · Document Management
 - Trial Presentation

- · Complete Case Management Application
- Several applications exist: (this is not an exhaustive list)
 - AbacusLaw
 - Actionstep
 - Amicus
 - Clio
 - MyCase
 - · Practice Master
 - HoudiniESQ
- You should become familiar with the system in your office; however, you should learn to adapt to any system
- · You can download HoudiniESQ for free to learn
 - Free for sole practitioners and may improve your marketability

- · Basic Office Management Functions
 - Calendar personal appointments, case deadlines, statutes of limitations, reminder dates
 - Contacts names, addresses, phone numbers, e-mail addresses, and other information for clients, opposing counsel, vendors, etc.
 - Files individual files for cases, projects, and other client matters
 - Accounting timekeeping, billing, firm accounting, client escrow accounts, financial reports, and tax returns
- In a small office, the legal secretary may be responsible for many of these functions

- The Office Calendar is used to track time-sensitive information about:
 - · Appointments with clients
 - · Litigation deadlines
 - · Filing deadlines
 - · Court appearance dates
 - · Statute of limitations dates
 - · Routine reminders



• The modern law office practice software systems are able to automate many of these important dates.

- · Timekeeping Software
 - Attorneys normally need to track all of the time they spend on a case
 - Specialized programs have been developed to handle this need, either as a stand alone program or as part of a total office practice system
 - Most modern systems will allow the attorney to open a time entry form which is automatically associated with the proper case file
 - You should learn how to handle timekeeping manually as a backup

- 1.Technology Skills
 - Word processing
 - · Spreadsheet
 - Presentation
 - · Document Management
 - Time & Billing
 - · Calendar & Docketing
 - Transcription
 - · Desktop Publishing
 - Videoconferencing

- · 2. Interpersonal Communication Skills
 - Writing Skills
 - · Phone etiquette
 - Email Etiquette
 - · Ability to communicate with a variety of stakeholders
 - Clients
 - Judicial personnel
 - Other attorneys
 - Support staff
 - Vendors

- 3. Organizational Skills
 - Filing systems
 - Project management
 - · Calendars and scheduling
 - · Event planning
- · 4. Transcription Skills
 - · Ability to use transcription equipment
 - · Listening skills
 - Fast typing skills
 - Grammar, spelling, vocabulary, language

- 5. Attention to Detail
 - Proofreading Documents
 - · Reviewing deadlines
 - · Last line of defense
- 6. Teamwork
 - · Manage subordinates
 - · Collaborating with other parties
- 7. Multi-tasking skills
 - The modern workplace requires one person to do the job of $\boldsymbol{3}$

- 8. Research Skills
 - · Legal Research
 - · Non-legal Research

The Law Office - Review

- Ethical Considerations
- Maintaining Integrity
- Getting to Know the Law Office
- Client Relations
- Dealing with Incoming and Outgoing Mail
- File Management
- Computers in the Law Office

Questions and Answers

Review Questions:

- 1. True or False: You are chatting with a client on the phone and he asks you whether you think he will win his case. You say 'Of course!'. You may be liable for Unauthorized Practice of Law.
 - A. True
 - B. False
- 2. True or False: Only the attorneys in the office need to be current with the rules of court.
 - A. True
 - B. False
- 3. True or False: Unauthorized Practice of Law is not a big deal, it's just something lawyers came up with to keep people from being able to get legal advice for cheaper.
 - A. True
 - B. False
- 4. True or False: A legal secretary is no different from any secretary or executive assistant in any other kind of office.
 - A. True
 - B. False
- 5. In which of the following offices will you not have to manage billing and billable hours?
 - A. Public Defender's office
 - B. Legal Aid office
 - C. County Attorney's office
 - D. All of the above
- 6. True or False: Sole Practitioners are lawyers who work independently within a law office that they both own and manage.
 - A. True
 - B. False
- 7. True or False: Clients are impatient, if I am busy and can't return phone calls or emails right away, it's not a problem.
 - A. True
 - B. False

- 8. True or False: Your behavior will have a direct impact on the success of the attorneys for whom you work.
 - A. True
 - B. False
- 9. True or False: Mail is a pretty insignificant part of my job. I don't have to pay too much attention to what's sent via snail mail, emails and phone calls are much more important.
 - A. True
 - B. False
- 10. True or False: File management is important because documentation must be readily accessible by all members of the office who need it.
 - A. True
 - B. False

Answer Key:

1. A

True. You should never answer a question from a client about the substance of his or her case. Anytime you are asked whether a client might win or lose refer them to the attorney.

2. B

False. As a legal secretary, it is very important for you to have current knowledge of the rules of court. You will be constantly filing documents with the court and communicating with the court offices, so you need to maintain up-to-date knowledge of the rules of the courts where your attorneys practice.

3. B

False. The Unauthorized Practice of Law is a *very* big deal. Committing UPL can get you arrested in some instances. Knowing the basics of law doesn't mean you can interpret law, analyze facts and provide strategy or advice that is in the client's best interest. When in doubt about whether you can answer a question, always consult the attorney.

4. B

False. A legal secretary is unique in that he or she has a special understanding of legal processes and has a specialized role on a legal team. While a legal secretary could be an executive assistant in just about any type of business office, without some additional knowledge, a general assistant would not be able to work as a legal secretary.

5. D

Unless you are working for a private law firm, it's highly unlikely that you would be responsible for managing billable hours or preparing invoices for clients.

6. A

True. Sole practitioners wear many hats as both the owner and operator of their own law firm. If you decide to work for a solo, you will be taking on a lot of responsibility, but you will also get the opportunity to learn a lot more on the job.

7. B

False. Clients are entitled to be updated on their cases regularly, in fact the rules of professional conduct require attorney's offices to communicate with their clients. You must be able to prioritize your time and set aside time each day to return calls and emails.

8. A

True. While the attorney's skill and competence are the ultimate factor in the success of your office, the legal secretary is usually the first person a client makes contact with in your office. If your clients don't feel valued and your behavior doesn't reflect a good image of your office, word will spread and this will have an impact on whether your office can be successful in your community.

9. B

False. The legal profession prefers to use written correspondence as the primary form of communication. While this definitely includes email, your office will always receive important documentation through the mail. You may be receiving court orders, pleadings, discovery responses and notices from the court offices. You must be careful with the mail and pay attention to each and every piece of mail. Even notices from the bar association or legal magazines may contain information and updates that the lawyers may find important.

10.A

True. Not only do legal secretaries use the documents in a file, but the attorneys often use the documents in a file to prepare a case for court or a deposition, etc. It's very important to manage file systems accurately and consistently.