



Presents

Organizing Your Small/Solo Practice

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ORGANIZING YOUR SMALL/SOLO PRACTICE

TIPS TO MANAGE YOUR PRACTICE AND MINIMIZE STRESS

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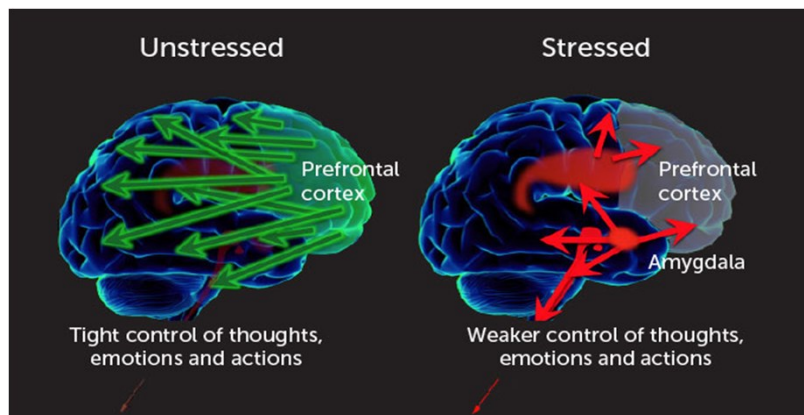
Chair of QCWBA Mental Health and Wellness Committee

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HOW DOES STRESS EFFECT MY PRACTICE?

- Maintaining a full case load in a small or solo practice creates anxiety and stress
- Disorganization is one of the leading causes of workplace stress- *and we're bringing that home!*
- How does stress effect us and our ability to practice ethically?



- An organized office which allows you to know your schedule of deadlines, meetings, court appearances, personal and professional obligations reduces stress and anxiety ensuring that you are better able to meet your responsibilities as an attorney

HOW CAN ORGANIZATION HELP MY PRACTICE?

- An organized office allows attorneys to use their skill and knowledge to competently represent their client's needs
- NY Model Rule 1.1: **Competence**
 - (a) A lawyer should provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
- Without effective organization in your practice not only can you aggravate your own work related stress, your ability to represent your clients can be compromised

COMPETENT REPRESENTATION: WORKING FROM HOME

- COVID has forced us all to learn to work from home but it has brought about new challenges; how can we address work needs and home needs at the same time?
- Sharing our attention at home can challenge our “competence” to perform our legal duties because “home” provides for distractions, can take away from properly absorbing legal issues, and could lead to the oversight of important information

How Can Organization Help?

- At home, create space that can be solely dedicated to your work even if it is only for a limited amount of time per day, i.e. the dining room table which has to be cleaned of your work documents for meals, shared office with others in your home who are remote learning or working from home
- Set a schedule for work, in your day but also for these shared spaces for remote learning and working from home. It may not be consistent every day but make it fit your needs
- Keep work and home mail separate [also a privacy issue, which we’ll discuss later]
- Take breaks as you need to manage both your home life and work life

COMMUNICATION

- Rule 1.4
 - (a) A lawyer shall:
 - (1) promptly inform the client of:
 - (i) any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(j), is required by these Rules;
 - (ii) any information required by court rule or other law to be communicated to a client; and
 - (iii) material developments in the matter including settlement or plea offers.
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) promptly comply with a client's reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by these Rules or other law.
 - (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

HOW CAN ORGANIZATION HELP WITH OUR COMMUNICATION OBLIGATIONS?

- Organizing your office and file allows you to timely and efficiently communicate with a client, opposing counsel and the Court regarding pending matters
- **Emails** – we're inundated during COVID, how can we keep up?
 - Flag emails by color
 - Create subfolders for each client, possibly even each matter for a client
 - *We'll talk more about digitizing your office later in the program*
- **Telephone Calls**
 - Have messages in a place that is easily accessible and easy to follow up, whether physical or digital messages, set reminders or deadlines to 'catch up' with messages
 - Follow up phone calls with emails confirming conversations and setting next steps, or assignments, for the case
 - *Creates paper trail to ensure client is aware of his/her obligations in a case and insulate attorney for liability purposes*
- **Schedule meetings** with clients with specificity, i.e. virtual, in person, on phone
 - Send reminders the day before. If there are multiple issues, set an agenda so you keep the conversation timely.
 - Create meetings through calendars that allow reminders to be automatically sent to clients, or office staff

RESPONSIBILITIES OF LAW FIRMS, PARTNERS, MANAGERS AND SUPERVISORY LAWYERS

- Rule 5.1:
 - **(a)** A law firm shall make reasonable efforts to ensure that all lawyers in the firm conform to these Rules.
 - **(b)** (1) A lawyer with management responsibility in a law firm shall make reasonable efforts to ensure that other lawyers in the law firm conform to these Rules.
 - (2) A lawyer with direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the supervised lawyer conforms to these Rules.
 - **(c)** A law firm shall ensure that the work of partners and associates is adequately supervised, as appropriate. A lawyer with direct supervisory authority over another lawyer shall adequately supervise the work of the other lawyer, as appropriate. In either case, the degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter, and the likelihood that ethical problems might arise in the course of working on the matter.

ORGANIZING YOUR OFFICE, CALENDAR, AND FILES

Office

- Have set spaces for specific items, i.e. mail, messages, filing, scanning
- Delineate responsibilities
- Shared office calendar
 - Court appearances
 - Client meetings
 - Deadlines

Files

- Have a structured file rather than throwing all documents related to one matter into a giant redwell or file folder
 - Include the most important and relevant documents, communications and information necessary to resolve your case
 - If it works for you, color code subfolders for different types of information necessary for your case
- Create digital versions of your file to access remotely

INTERNAL OFFICE COMMUNICATIONS

- Choose methods which allow you to follow up with other members of your office
 - Office memos
 - Text messages
 - Emails
 - Digital apps, i.e. Slack, Microsoft Teams
- Create to do lists and checklists for support staff
 - Have system for following up on pending action items

COURT RULES AND RULINGS

- Rule 3.4: A lawyer shall not:
 - (c) disregard or advise the client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take appropriate steps in good faith to test the validity of such rule or ruling
 - COVID has created new and different rules in every court, and differing from county to county

How can Organization help with our obligations to Court Rules?

- Ask for copies of the court rules and scan all orders, rules, decisions from Court
- Create a system that allows you or support staff to keep clients informed of any and all rules or orders from the Court
- Ensure client has copy of those necessary to their case
- Create file (digital or physical) for your own records of judge part rules and Court checklists to ensure you are in compliance and prepare for cases adequately

CONFIDENTIALITY OBLIGATIONS

- Rule 1.6:
 - (a) A lawyer shall not knowingly reveal confidential information, as defined in this Rule, or use such information to the disadvantage of a client or for the advantage of the lawyer or a third person, unless:
 - (1) the client gives informed consent, as defined in Rule 1.0(j);
 - (2) the disclosure is impliedly authorized to advance the best interests of the client and is either reasonable under the circumstances or customary in the professional community; or
 - (3) the disclosure is permitted by paragraph (b).
 - “Confidential information” consists of information gained during or relating to the representation of a client, whatever its source, that is (a) protected by the attorney-client privilege, (b) likely to be embarrassing or detrimental to the client if disclosed, or (c) information that the client has requested be kept confidential. “Confidential information” does not ordinarily include (i) a lawyer’s legal knowledge or legal research or (ii) information that is generally known in the local community or in the trade, field or profession to which the information relates.

HOW CAN ORGANIZATION PREVENT BREACHES OF CONFIDENTIALITY

- Organization and preparation are the best way to ensure client confidentiality especially when working from home or any type of shared space
- If working in a shared office or home office space:
 - Ensure you have place to take private calls without being overheard
 - Ensure you have location for files where others cannot have access
 - Separate your mail, or use a P.O. Box for business email
- Ensure that digital files are secure
 - Using reliable websites/programs
 - Password protected
 - *Again, we'll talk about tips for digitizing your office later in the program*

DILIGENCE OBLIGATIONS

- Rule 1.3: **Diligence**
 - (a) A lawyer shall act with reasonable diligence and promptness in representing a client.
 - (b) A lawyer shall not neglect a legal matter entrusted to the lawyer.
 - (c) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but the lawyer may withdraw as permitted under these Rules.
- Directly related to all aspects of running an office and being organized will allow you to address the needs of your clients, cases and office in a timely manner

How can organization help with our Diligence obligations?

- Create system for alerts, reminders or confirmations of upcoming deadlines, court appearances, client meetings
- Create To Do lists for each day/week based on deadlines/priorities
 - Physical or digital based on preference
 - Make sure lists are prioritized, even if items are added to the list later

OTHER RULES AIDED BY STAYING ORGANIZED IN YOUR PRACTICE

Fiduciary Obligations

- There is no way to comply with this rule without being organized
- Have a system of keeping records and accounts ensuring that you keep track of what money is deposited into the accounts and the source of the funds as well as all monies that are withdrawn from the accounts, to whom they were paid and the purpose of the payments
- Ensure that members of your office are familiar with how to comply with the system

Conflicts of Interest

- Have names, related files and clients virtually organized to be able to quickly alleviate any issues of conflicts of interest
- Digitize the information to make it more easily searchable to ensure no conflicts

FIDUCIARY RESPONSIBILITY, COMINGLING FUNDS, RECORD KEEPING, BANK ACCOUNTS

- Rule 1.15:
 - (a) Prohibition Against Commingling and Misappropriation of Client Funds or Property.
 - A lawyer in possession of any funds or other property belonging to another person, where such possession is incident to his or her practice of law, is a fiduciary, and must not misappropriate such funds or property or commingle such funds or property with his or her own.
 - (c) Notification of Receipt of Property; Safekeeping; Rendering Accounts; Payment or Delivery of Property.
 - A lawyer shall:
 - (1) promptly notify a client or third person of the receipt of funds, securities, or other properties in which the client or third person has an interest;
 - (2) identify and label securities and properties of a client or third person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;
 - (3) maintain complete records of all funds, securities, and other properties of a client or third person coming into the possession of the lawyer and render appropriate accounts to the client or third person regarding them; and
 - (4) promptly pay or deliver to the client or third person as requested by the client or third person the funds, securities, or other properties in the possession of the lawyer that the client or third person is entitled to receive.

FIDUCIARY RESPONSIBILITY, COMINGLING FUNDS, RECORD KEEPING, BANK ACCOUNTS

- Rule 1.15 (cont.):
 - (d) Required Bookkeeping Records.
 - (1) A lawyer shall maintain for seven years after the events that they record:
 - (i) the records of all deposits in and withdrawals from the accounts specified in Rule 1.15(b) and of any other bank account that concerns or affects the lawyer's practice of law; these records shall specifically identify the date, source and description of each item deposited, as well as the date, payee and purpose of each withdrawal or disbursement;
 - (ii) a record for special accounts, showing the source of all funds deposited in such accounts, the names of all persons for whom the funds are or were held, the amount of such funds, the description and amounts, and the names of all persons to whom such funds were disbursed;
 - (iii) copies of all retainer and compensation agreements with clients;
 - (iv) copies of all statements to clients or other persons showing the disbursement of funds to them or on their behalf;
 - (v) copies of all bills rendered to clients;
 - (vi) copies of all records showing payments to lawyers, investigators or other persons, not in the lawyer's regular employ, for services rendered or performed;
 - (vii) copies of all retainer and closing statements filed with the Office of Court Administration; and
 - (viii) all checkbooks and check stubs, bank statements, prenumbered canceled checks and duplicate deposit slips.

CONFLICTS OF INTEREST


- Rule 1.8: Current Client: Specific Conflict of Interest Rules
- Rule 1.9: Duties to Former Clients
- Rule 1.10: Imputation of Conflicts of Interest
- Rules 1.11 & 1.12: Special Conflicts of Interest
- Rule 1.18: Duties to Prospective Clients

DIGITAL OFFICE: A MUST FOR MRPC COMPLIANCE

- Our practices are becoming more and more reliant on technology which can create practice issues related to our professional responsibilities as attorneys but it can also be used to optimize our practice
- Accessing files virtually
 - Cloud based storage, i.e. OneDrive, Google Drive, Dropbox
 - Phone Service Options
 - VOIP: Internet based phone services allows you to answer calls from outside the office
 - Phone Service: having a phone service act as your digital receptionist/secretary to answer phone calls
- Scan all necessary documents relating to a case ensuring that you have a digital version of your physical files
 - Institute policy of automatic scanning for all documents that comes into and goes out of office
- Save files with detailed names to allow you to easily access information and search files

DIGITAL RESOURCES FOR ORGANIZATION

- Microsoft Office
 - OneDrive allows you to have a secure cloud based server where you can save files
 - Outlook allows you to create calendar invites with information for client meetings and deadlines for yourself
- Gmail/Google Suite
 - Offers similar options to Microsoft Office for securing digital files, calendars with invite capabilities and deadlines
 - Allows you to create multiple calendars with color coding, i.e. Court appearances, deadlines, client meetings, professional obligations, personal obligations
- Case management based services like MyCase, Clio, Practice Partner
 - Allows you to have all information related to a case in one place, including notes and other documents; allows you to track time and expenses; allows you to invoice clients directly and receive payment through MyCase

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- Find what works best for you
 - Make sure that those in your office understand your organizational system
 - Stick to your system