Colorado Lawyer Self-Assessment Program Bibliography of Resources

Assessment #1 – Developing Competent Practices

- (1) Mark Bassingthwaighte, <u>Getting It Right with Client Selection</u> (ALPS Corp.), Aug. 26, 2014.
- (2) Alan Gutterman, <u>Practical Challenges of Meeting Your Duties of Competence and</u> <u>Diligence to Your Clients</u>, Legal Solutions Blog (Thomson Reuters), July 18, 2016.
- (3) Ellie Margolis, *Surfin' Safari Why Competent Lawyers Should Research on the Web*, 10 YALE J. L. & TECH. 82 (2007).
- (4) In re Nunnery, 725 N.W.2d 613 (Wis. 2007).
- (5) Frank T. Lockwood, <u>*Reinventing Client Selection and Case Management*</u>, GP SOLO, July/Aug. 2014.
- (6) Christopher Sabis & Daniel Webert, <u>Understanding the "Knowledge" Requirement of Attorney Competence: A Roadmap for Novice Attorneys</u>, 15 GEO. J. LEGAL ETHICS 915 (Summer 2002).
- (7) STANDING COMMITTEE ON ETHICS AND PROF. RESP., AM. BAR ASS'N., ETHICS OP. 06-441: <u>ETHICAL OBLIGATIONS OF LAWYERS WHO REPRESENT INDIGENT CRIMINAL</u> <u>DEFENDANTS WHEN EXCESSIVE CASELOADS INTERFERE WITH COMPETENT AND</u> <u>DILIGENT REPRESENTATION</u> (2006).

Assessment #2 – Communicating in an Effective, Timely, Professional Manner

- (1) ALPS CORP., <u>SAMPLE CLOSING LETTERS.</u>
- (2) ALPS CORP., <u>SAMPLE ENGAGEMENT LETTERS WITH OPTIONAL NOTICES</u>.
- (3) Mark Bassingthwaighte, <u>Communication It's All in The Details</u> (ALPS Corp.), 2015.
- (4) Mark Bassingthwaighte, <u>If You Failed to Document It, It Never Happened</u> (ALPS Corp.), Jan. 18, 2017.
- (5) Mark Bassingthwaighte, <u>Manage Client Relationships in Addition to Client Matters</u> (ALPS Corp.), 2016.
- (6) Best Practices: Solicit and Respond to Client Feedback, FindLaw.com, Feb. 9, 2017.
- (7) BETTER BUSINESS BUREAU, <u>CODE OF ADVERTISING</u>.

- (8) CNA PROF'L COUNS., <u>LAWYERS' TOOLKIT 4.0: A GUIDE TO MANAGING THE ATT'Y-</u> <u>CLIENT RELATIONSHIP</u>, CNA (2018).
- (9) Dean Dietrich, *Handling Clients' Text Messages*, WIS. LAWYER, April 2016.
- Dean Dietrich, <u>Ethics: Lawyers Owe Clients 'Reasonable' Communication</u>, WIS. LAWYER, June 2011.
- (11) ETHICS COMM., COLO. BAR ASS'N, <u>ETHICS OP. 90</u>: PRESERVATION OF CLIENT CONFIDENCES IN VIEW OF MODERN TECHNOLOGY (1992).
- (12) LAWYERS' PROFESSIONAL LIABILITY IN COLORADO, 2016 ED. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 2.7, § 2.9, Ex. 2A (Sample Closing Letter).
- (13) Lynn Luong, <u>Law Firm Client Relations: How to Get Client Feedback That</u> <u>You Can Use</u>, AboveTheLaw.com, Nov. 9, 2016.
- (14) Charles Mortimer, <u>Know When to Hold 'Em, Know When to Fold 'Em</u>, OFF. OF ATT'Y REG. COUNS. (2014).
- (15) Peter Norman, <u>BCC'ing Your Clients: Not Just a Bad Idea, But Unethical?</u> Law360.com, June 6, 2016.
- (16) OFFICE OF ATT'Y REG. COUNS., COLO. SUP. CT., <u>HIRING AND WORKING WITH</u> <u>AN ATTORNEY</u>.

<u>Assessment #3 – Ensuring That Confidentiality Requirements Are Met</u>

- John W. Allen, <u>Inadvertent Disclosure of Privileged Information</u>, GP SOLO, Nov./Dec. 2012.
- (2) Robert Barrer, <u>Ethical Implications and Best Practices for Use of Email</u>, N. Y. LEGAL ETHICS REPORTER, Mar. 1, 2015.
- (3) Mark Bassingthwaighte, <u>Why Be Concerned About Law Firm Housekeeping Apathy?</u> (ALPS Corp.), May 13, 2014.
- (4) ETHICS COMM., COLO. BAR ASS'N, <u>ETHICS OP. 108: INADVERTENT DISCLOSURE OF</u> <u>PRIVILEGED OR CONFIDENTIAL DOCUMENTS</u> (2000).
- (5) Grace Giesel, <u>The Duty of Confidentiality and the Attorney-Client Privilege: Sorting</u> <u>Out the Concepts</u>, KY. BENCH & BAR MAG., Jan. 2015, republished by Lawyerist.com, Mar. 19, 2015.
- (6) Nick Graf, *Social Media Risks for Lawyers*, CNA, Sept. 8, 2016.

- (7) David Hudson, <u>When Withdrawing Over a Client's Failure to Pay, What Do You Say</u> <u>to Protect Confidentiality?</u>, ABA J., Dec. 19, 2016.
- (8) Ed Poll, *The Slippery Ethical Slope of Social Media*, L. PRAC. TODAY, Nov. 2012.
- (9) Judith Rosenblum, <u>An Ethical Practice in Today's Electronic World</u>, THE DOCKET, June 23, 2014.
- Allison Shields, <u>Prevent Confidentiality Leaks in Your Firm</u>, Lawyerist.com, Mar. 5, 2010.
- (11) STANDING COMMITTEE ON ETHICS AND PROF. RESP., AM. BAR ASS'N, <u>ETHICS</u> OP. 06-440 UNSOLICITED RECEIPT OF PRIVILEGED OR CONFIDENTIAL MATERIALS (2006).
- (12) STANDING COMMITTEE ON ETHICS AND PROF. RESP., AM. BAR ASS'N, <u>ETHICS</u> OP. 477R; SECURING COMMUNICATION OF PROTECTED CLIENT INFORMATION (2017).
- (13) STANDING COMMITTEE ON ETHICS AND PROF. RESP., AM. BAR ASS'N, <u>ETHICS</u> OP. 480 CONFIDENTIALITY OBLIGATIONS FOR LAWYER BLOGGING AND OTHER <u>COMMENTARY</u> (2018).
- (14) Kathryn Thompson, <u>Keeping Your Office Sharing Arrangements with Other</u> <u>Lawyers Squeaky Clean Under the Ethics Rules</u>, ABA CTR. FOR PROF. RESP., May 2007.
- Holly Urban, <u>Prioritizing Cybersecurity to Protect Client Information from</u> <u>Data Breaches</u>, L. TECH. TODAY, Jan. 3, 2019.

Assessment #4 – Avoiding Conflicts of Interest

- Mark Bassingthwaighte, <u>Don't Kiss Off the Importance of Closure Letters</u> (ALPS Corp.), Jan. 26, 2015.
- (2) Mark Bassingthwaighte, <u>Watch Out for These Common Conflict of Interest Traps</u> (ALPS Corp.), Mar. 3, 2015.
- (3) Mark Bassingthwaighte, <u>You Don't Get It Both Ways, the Downside of Joint</u> <u>Representation</u>, VA. LAW., Aug. 3, 2012.
- (4) Josh Camson, *Making a List: The Conflicts Check*, Lawyerist.com, Oct. 8, 2013.
- (5) ETHICS COMM., COLO. BAR ASS'N, ETHICS OP. NO.

13: Office Sharing – Municipal Judge (1960, Revised 1996) 43: Duty to Insured (1969, Addendum 1995)

- 58: WATER RIGHTS, REPRESENTATION OF MULTIPLE CLIENTS (1981, REVISED 1995)
- 68: CONFLICTS OF INTEREST, PROPRIETY OF MULTIPLE REPRESENTATION (1985, REVISED 2011)
- 82: Assertion of Attorney's Retaining Lein on Client Papers (1989, Addendum 1995)
- 89: Office Sharing—Conflicts, Confidentiality, Letterheads and Names (1991)
- <u>91</u>: ETHICAL DUTIES OF ATTORNEY SELECTED BY INSURER TO REPRESENT ITS INSURED (1993, ADDENDUM 2013)
- 105: OPINION ON TEMPORARY LAWYERS (1999)
- 107: THIRD-PARTY AUDITORS (1999)
- <u>110</u>: Assertion of Attorney's Lien/Charging Interest in Property (Jan. 2002, Amended May 2002)
- <u>116</u>: Ethical Considerations in the Dissolution of a Law Firm or a Lawyer's Departure from a Law Firm (2007)
- 121: USE OF TEMPORARY LAWYERS AND OTHER PROFESSIONALS NOT ADMITTED TO PRACTICE LAW IN COLORADO ("OUTSOURCING") (2009)
- 129: ETHICAL DUTIES OF LAWYERS PAID BY ONE OTHER THAN THE CLIENT (2017)
- (6) J. Randolph Evans, Shari Klevens, Lino Lipinsky, *The Colorado Lawyer, Effective* <u>Conflict Waivers</u>, CLE IN COLO., INC., April 14, 2015.
- (7) LAWYERS' PROFESSIONAL LIABILITY IN COLORADO, 2016 ED. (Michael T. Mihm, ed., CLE in Colo., Inc.), §§ 4.5.1, 4.5.3, 4.5.4, 4.7, 4.9, 4.10.1 4.10.4, 4.11, 4.12.

<u>Assessment #5 – Maintaining Appropriate File and Records Management</u> <u>Systems</u>

- Heidi Alexander, <u>How to Vet Cloud Technology Providers</u>, MASS. L. OFF. MGMT. PROGRAM, 2018.
- (2) Kendra Albert, <u>Computer Security Tools & Concepts for Lawyers</u>, 20 GREEN BAG 2D 127 (2017).
- (3) Christopher Anderson & Dan Barahona, <u>When "Secure Enough" Isn't Enough: A Law</u> <u>Firm Guide to Protecting the Confidentiality of Client Files</u>, LEXIS NEXIS (2013), at p. 13.
- (4) Sherri Davidoff, *Law Firm Cybersecurity Audits: Getting to Good*, L. PRAC. TODAY, Feb. 12, 2016.
- (5) Mary Ellen Egan, <u>Cyberthreats 101: The Biggest Computer Crime Risks Lawyers</u> <u>Face</u>, ABA J., Mar. 1, 2018.

- (6) ETHICS COMM., COLO. BAR ASS'N, ETHICS OP. 119: <u>DISCLOSURE, REVIEW AND USE OF</u> <u>META DATA</u> (2008)
- (7) FindLaw.com, <u>Top 5 Reasons a Document Management Program Is Critical to Law</u> <u>Practice</u>, FindLaw.com Feb. 10, 2017.
- (8) Sam Glover, *How to Organize Paperless Client Files*, Lawyerist.com, Nov. 25, 2013.
- (9) Pem Guerry, <u>Why Remote Security Is a Must</u>, LAW TECH. TODAY, Jan. 12, 2017.
- (10) Tom Kulik, <u>Cybersecurity, Confidentiality, and Your Ethical Obligations to</u> <u>Your Clients</u> (Part II), ABOVE THE LAW, Nov. 26, 2018.
- (11) Beverly Michaelis, *Documenting Email as Part of a Client's File, Part I*, OR. STATE BAR BULLETIN, April 2013.
- (12) Linda Musthaler, <u>Encrypted Data In the Cloud? Be Sure to Control Your Own</u> <u>Keys</u>, NETWORK WORLD, Sept. 5, 2014.
- (13) Sharon Nelson & John Simek, <u>Selecting a Law Firm Cloud Provider</u>, MICH. BAR J., Mar. 2014.
- (14) Judith Rosenblum, <u>Ethical Dilemmas or A No Good, Terrible, Bad Day</u>, THE DOCKET, Oct. 26, 2014.
- (15) STANDING COMMITTEE ON ETHICS AND PROF. RESP., AM. BAR ASS'N, <u>ETHICS</u> <u>OP. 11-459 DUTY TO PROTECT THE CONFIDENTIALITY OF E-MAIL COMMUNICATIONS</u> <u>WITH ONE'S CLIENT</u> (2011).
- (16) STANDING COMMITTEE ON ETHICS AND PROF. RESP., AM. BAR ASS'N, <u>ETHICS</u> OP. 483 LAWYERS' OBLIGATIONS AFTER AN ELECTRONIC DATA BREACH OR <u>CYBERATTACK</u> (2018).
- (17) <u>SURVIVING A DISASTER: A LAWYER'S GUIDE TO DISASTER PLANNING</u>, ABA SPECIAL COMM. ON DISASTER RESPONSE AND PREPAREDNESS, AUG. 2011.
- (18) Jason Tashea, <u>Lawyers Have an Ethical Duty to Safeguard Confidential</u> <u>Information in the Cloud</u>, ABA J., April 2018.
- Ed Tittel & Earl Follis, <u>How Better Log Monitoring Can Prevent Data</u> <u>Breaches</u>, CIO.com, Feb. 24, 2015.

Assessment #6 – Managing the Law Firm/Legal Entity and Staff Appropriately

- (1) AM. BAR ASS'N, <u>MATERIALS FOR PURCHASERS OF PROFESSIONAL LIABILITY</u> <u>INSURANCE</u>.
- (2) ETHICS COMM., COLO. BAR ASS'N, <u>ETHICS OP. 98: ETHICAL RESPONSIBILITIES OF</u> <u>LAWYERS WHO ENGAGE IN OTHER BUSINESS</u> (2015).
- (3) Lawyers' Professional Liability in Colorado, 2016 Ed. (Michael T. Mihm, ed., CLE in Colo., Inc.), § 1.3.1, 2.10, 2.12, 6.2, 20.4.5 (discussing available forms of organization for the practice of law).
- (4) Miranda Mandel, <u>Ethical & Liability Concerns When the Client Relationship Ends</u>, ATTORNEYS LIABILITY ASSURANCE SOC'Y, INC. (2014).
- (5) OFF. OF ATT'Y REG. COUNS. COLO. SUP. CT., <u>A WORD ABOUT PROFESSIONAL LIABILITY</u> (<u>MALPRACTICE</u>) INSURANCE.
- (6) OFFICE OF ATT'Y REG. COUNSEL, COLO. SUP. CT. <u>EMPLOYEE RESIGNATION/TERMINATION CHECKLIST</u> (2017) <u>SMALL FIRM BUSINESS MANUAL AND RISK MANAGEMENT CHECKLIST</u> (2017) <u>SMALL FIRM CLIENT ENGAGEMENT CHECKLIST</u> (2017) <u>SOLE PRACTITIONER BUSINESS MANUAL AND RISK MANAGEMENT CHECKLIST</u> (2017) <u>SOLE PRACTITIONER CLIENT ENGAGEMENT CHECKLIST</u> (2017) <u>SOLE PRACTITIONER CLIENT ENGAGEMENT CHECKLIST</u> (2017) <u>SOLE PRACTITIONER STAFF PROCEDURES CHECKLIST</u> (2017)
- (7) OFFICE OF ATT'Y REG. COUNSEL, <u>PLANNING AHEAD: A GUIDE TO PROTECTING YOUR</u> <u>CLIENTS' INTERESTS IN THE EVENT OF YOUR DISABILITY OR DEATH (ONE OF WHICH IS</u> <u>INEVITABLE</u>) (2007).
- (8) Alec Rothrock, <u>Check Your Policy: Disciplinary Defense Insurance "Coverage,"</u> THE DOCKET, Nov. 23, 2015.
- (9) Michael Schewe & Courtney Ward-Reichard, <u>*Time Management Tricks and Techniques*</u>, L. PRACTICE MAG., May/June 2012.

<u>Assessment #7 – Charging Appropriate Fees and Making Appropriate</u> <u>Disbursements</u>

- (1) AM. BAR ASS'N, <u>ETHICS OP. 02-425: RETAINER AGREEMENT REQUIRING ARBITRATION</u> <u>OF FEE DISPUTES AND MALPRACTICE CLAIMS</u> (2002).
- (2) James Carlson, *<u>How to Manage Flat Fees</u>*, COLO. SUP. CT., 2016.

- (3) ETHICS COMM., COLO. BAR ASS'N, Ethics Op. 91: <u>ETHICAL DUTIES OF ATTORNEY</u> <u>SELECTED BY INSURER TO REPRESENT ITS INSURED</u> (1993, addendum issued 2013).
- (4) ETHICS COMM., COLO. BAR ASS'N CBA Ethics Op. 101, <u>UNBUNDLING/LIMITED SCOPE</u> <u>REPRESENTATION</u> (2015).
- (5) Dean Dietrich, <u>Ethics: "Impliedly Authorized" Disclosure of Client Information</u>, WIS. LAW., Oct. 2010.
- (6) Helen Gunnarsson, Avoiding Withdrawal Pains, ILL. BAR J., May 2010.
- (7) David Hudson, <u>Sharing Fees with a Lawyer Outside the Firm Is OK as Long as</u> <u>Certain Ethics Rules Are Followed</u>, ABA J., July 1, 2016.
- (8) Alec Rothrock, *Engagement Retainers: Handle with Care*, THE DOCKET, Sept. 22, 2015.
- (9) SAN DIEGO COUNTY BAR ASS'N, LEGAL ETHICS OP. 2013-3 (2013).
- (10) Jonathan Stepanian, <u>Flat Fee Arrangements May Carry Sharp Consequences</u>, LITIG. NEWS, June 20, 2012.

Assessment #8 - Ensuring Reliable Trust Account Practices Are In Use

- (1) Steven J. Best, <u>A Lawyer's 7-Point Plan for Trust Account Management</u>, LexisNexis Law Firm Practice Management White Paper Series, 2013, at p. 2.
- (2) Colo. Lawyers Trust Account Found., Frequently Asked Questions, coltaf.org.
- (3) Amy DeVan, <u>Use of the Client Trust Account: What Not to Do</u>, THE DOCKET, June 30, 2016.
- (4) <u>MANAGING TRUST ACCOUNTING FOR COMPLIANCE</u>, LEXISNEXIS BEST PRACTICE (2010).
- (5) OFFICE OF ATT'Y REG. COUNS., COLO. SUP. CT., TRUST ACCOUNT MANUAL.
- (6) Ed Poll, <u>Trust Accounts: Accountability, Access, and Advantages</u>, L. PRAC. TODAY, Jan. 24, 2015.
- (7) People v. Miller, 35 P.3d 689, (Colo. O.P.D.J. 2001)

<u>Assessment #9 – Working to Improve the Administration of Justice and Access</u> <u>to Legal Services</u>

(1) CANADIAN BAR ASS'N, <u>The ABCs of Creating a Pro Bono Policy for Your Law Firm</u> (Oct. 2009).

- (2) COLO. BAR ASS'N/CLE IN COLO., <u>SUCCESSFUL BUSINESS PLANNING: REPRESENTING</u> <u>THE MODERATE INCOME CLIENT</u> (2013).
- (3) Jenny B. Davis, *Designing Your Law Office to Save Money and Boost Productivity-Without Sacrificing Style*, ABA J., July 1, 2014.
- (4) Marc Davis, *Paying Off*, ABA J., June 2018.
- (5) Stacy DeBroff, Kevin Lapp, Alexa Shabecoff, <u>Pro Bono Guide: An Introduction to</u> <u>Pro Bono Opportunities in the Law Firm Setting</u>, HARVARD L. SCH.
- (6) Dean R. Dietrich, *Handling Clients' Text Messages*, WIS. LAW., April 2016.
- (7) HON. ADAM ESPINOSA, AMY GOSCHA, JAMES GARTS, HON. DANIEL TAUBMAN, AND DANAÉ D. WOODY, <u>PRACTICAL AND ETHICAL CONSIDERATIONS TO INTEGRATING</u> <u>UNBUNDLED LEGAL SERVICES</u>, COLO. BAR ASS'N/CLE IN COLO., (2015).
- (8) INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., <u>UNBUNDLING LEGAL</u> <u>SERVICES: A GUIDE FOR LAWYERS</u> (2015).
- (9) NAT'L CENTER FOR ACCESS TO JUSTICE, JUSTICE INDEX 2016, Fordham Law School.
- (10)

NATIONAL CENTER FOR ACCESS TO JUSTICE, FORDHAM LAW SCHOOL, <u>WHAT IS THE</u> JUSTICE GAP?, JUSTICE INDEX 2016.

- (11) NEW YORK CITY BAR ASSOCIATION MINORITIES IN THE PROFESSION COMMITTEE, <u>BEST PRACTICES STANDARDS FOR THE RECRUITMENT, RETENTION,</u> DEVELOPMENT, AND ADVANCEMENT OF RACIAL/ETHNIC MINORITY ATTORNEYS.
- (12) Steve Olenski, <u>The 7 Lethal Internet Marketing Mistakes Law Firms Make</u>, FORBES, Mar. 5, 2015.
- Randall Ryder, <u>How to Keep Your Solo Practice Sustainable and Lean</u>, Lawyerist.com, Mar. 25, 2016.
- (14) Bruce Stachenfeld, <u>*Reinventing the Law Business: Low Overhead is Great!,*</u> Above the Law, June 24, 2014.
- (15) Kathryn Thompson, <u>Keeping Your Office Sharing Arrangements with Other</u> <u>Lawyers Squeaky Clean Under the Ethics Rules</u>, ABA CTR. FOR PROF. RESP., May 2007.

Assessment #10 - Wellness & Inclusivity

American Bar Association's Office of Diversity and Inclusion

Center for Legal Inclusiveness

Colorado Lawyer Assistance Program