

# *Assess Your Law Practice: a comprehensive self-check*

**This self-assessment should be answered as honestly and openly as possible** in order to fully assess the strengths and weaknesses of your practice. **It is for your own use, and you need not share it with others.**

*Self-assessment can be a useful first step in strategic planning for your law practice to promote awareness of improvements needed and to begin developing strategies to better serve your clients, improve your practice, raise your level of professionalism, and advance your personal satisfaction as a practicing lawyer.*

The practice areas addressed by this self-assessment are:

1. CLIENT SELECTION
2. DECLINING CASES
3. ACCEPTING NEW CASES
4. CLIENT RELATIONSHIPS & FEE AGREEMENTS
5. ENDING REPRESENTATION
6. OFFICE MANAGEMENT – HANDLING FUNDS
7. OFFICE MANAGEMENT – POLICIES & PROCEDURES
8. OFFICE SHARING
9. PARTNERSHIPS & SHARED PRACTICES
10. TECHNOLOGY
11. SUPERVISING STAFF
12. CONFLICTS OF INTEREST
13. BILLING
14. MARKETING YOUR FIRM
15. PERSONAL WORK HABITS

Note: not all “yes” answers are good answers! Some items that you might mark “yes” indicate risk areas (see: e.g. “Does the prospective client think they know as much about the law as you do?”) The questions are posed for you to think about how you manage your practice ... this is not a scoring test.

## **DISCLAIMER:**

These materials are presented for educational purposes only, and are not official pronouncements of the Office of Disciplinary Counsel, nor has this document been approved by the Hawai‘i Supreme Court or its Disciplinary Board. Each practitioner is responsible to make sure their legal practice conforms to the applicable rules of conduct and law of the applicable jurisdiction.

2/24/2019

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Selection</b>					
Do you generally accept most prospective clients that contact you?					
Have you familiarized yourself with HRPC Rule 1.18- Duties to prospective clients?					
Before accepting representation, do you have a client screening process that includes the following: a. What are the prospective clients' goals?					
b. Has the prospective client changed attorneys in the past?					
c. Does the prospective client have unrealistic expectations?					
d. Is the prospective client overly concerned about cost or fee shopping?					
e. Is the prospective client's matter appropriate for the size and scope of your practice?					
f. Have you thoroughly discussed your fees and expenses with the prospective client in detail including the type of fee charged?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Selection</b>					
g. Is the prospective client able to pay all legal fees?					
h. Do you offer the prospective client a clearly written fee agreement?					
i. Do you have the necessary knowledge and experience in the practice area needed to serve this client matter?					
j. If not, are you willing to associate with co-counsel?					
k. Have you checked conflicts of interest?					
l. If you discover a conflict, do you consider whether the clients or former clients can waive the conflict using HRPC Rule 1.7(b)?					
m. Do you understand that not all conflicts can be cured with a written waiver? If it can be waived, do you confirm in writing?					
n. Do you have the necessary time for this client's matter?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Selection</b>					
o. Is the prospective client realistic about their case outcome?					
p. Does the prospective client want to win at all costs?					
q. Does the prospective client think they know as much about the law as you?					
r. Do you avoid making any guarantees or suggestions of the case outcome to prospective clients?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Declining Cases</b>					
If you decline to represent the prospective client, do you send a non-engagement letter?					
Does your non-engagement letter state clearly: a. That no lawyer-client relationship exists?					
b. Warn about statutes of limitations?					
c. Suggest that they seek other counsel? If so, do you recommend anyone?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Accepting New Cases</b>					
After accepting representation: a. Do you use a client intake form to record all the necessary information for this client's matter?					
b. Do you give your new clients the time and opportunity to ask questions about your arrangements or their case?					
c. Do you ask for an advanced payment on fees?					
d. Do you introduce your new client to your staff?					
e. Do you thoroughly explain your telephone and email policies to your new clients?					
f. Do you offer clients a folder to keep documents and copies of communications about their case?					
g. Did you open a file for the client including the client intake form, attorneys' notes of initial meeting, copy of fee agreement and open trust account client ledger if necessary.					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Accepting New Cases</b>					
h. Do you thank clients in person and in writing for choosing your firm?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Relationships &amp; Fee Arrangements</b>					
Have you reviewed HRPC Rules 1.2 and 1.4 on client communications?					
Do you or a member of your staff return phone calls and text messages within at least 48 hours?					
Do you or a member of your staff respond to emails within at least 48 hours?					
Do you regularly keep clients informed of the status of their case?					
Do you confirm all major decisions with clients in writing?					
Do you diligently work on your client's matters?					
If the client rejects your advice, do you document it in writing?					
Do you obtain the client's written consent when referring matters to other counsel?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Relationships &amp; Fee Arrangements</b>					
Do you discuss with the client the need for hiring experts or other costly expenses?					
When entering into a fee agreement, a. Did you review HRPC Rule 1.5(a)&(b) on earning and communicating fees?					
b. do you put it in writing and give the agreement to client at the outset?					
When entering into a <b>flat fee</b> agreement, a. Did you review HRPC Rule 1.5(c) on flat fees?					
b. Do you have the client sign the agreement?					
c. Did you explain to the client whether you will be compensated incrementally during the representation or if it terminates early?					
When entering into a <b>contingent fee</b> agreement, a. Did you review HRPC Rule 1.5(d)&(e) on contingency fees?					
b. Do you have the client sign the agreement?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Relationships &amp; Fee Arrangements</b>					
c. Do you clearly explain to the client whether the percentage will be taken from the gross or net proceeds?					
d. Do you clearly explain how you will be compensated if you are discharged or you withdraw (if allowable) if the client refuses a reasonable offer to settle?					
For <b>all fees</b> , do you communicate your fees and the expenses for which the client is responsible in writing to the client before or within a reasonable time after commencing representation?					
If you're requesting an advanced payment on fees, do you familiarize yourself with the rule that prohibits non-refundable fees, HRPC Rule 1.5(b)?					
If you're requesting an advanced payment on fees, do you a. Clearly explain what the payment is for?					
b. Clearly explain how/when the monies will be viewed as earned and moved from trust to operating?					
Do you impress upon clients how important it is that they are candid and cooperative?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Relationships &amp; Fee Arrangements</b>					
Are you careful with scheduling to avoid long waits for client appointments?					
Are you generally available to your clients and give them needed time to discuss important matters?					
Are you respectful and courteous to your clients?					
Do you give clients your undivided attention when meeting with them?					
Do you meet with clients in a private, uncluttered area?					
Do you refrain from using legal jargon that clients may not understand?					
Do you discuss risks and benefits with clients concerning their legal matter?					
Do you provide clients with copies of all relevant documents concerning their matter?					
Do you discuss with clients alternative courses of action?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Relationships &amp; Fee Arrangements</b>					
Do you bill your clients at least monthly?					
Do you provide a detailed billing statement clearly outlining the work performed?					
Do you train your staff how to respectfully handle clients in person and on the phone?					
Do you clearly explain confidences regarding family members who may be acting in a support capacity or paying your fees?					
Do you inform your clients how to handle concerns regarding their case or with your firm's services?					
Are you careful about not revealing client confidences in social settings?					
Do you use a task reminder or "to-do" list for administrative and legal work?					
Do you keep your word to clients about completing their legal work or at least notify them if there will be a delay?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Client Relationships &amp; Fee Arrangements</b>					
Do you maintain monthly contact with your clients even if there is no action on their matter during that time period?					
Do you reasonably attempt to resolve fee disputes with clients?					
Do you promptly provide clients with a complete copy of the file when requested?					
Do you carry professional liability insurance to protect you and your clients?					
Do you promptly deliver bad news to clients in such a fashion that is understandable?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Ending the Representation</b>					
When a client's matter has concluded, do you solicit feedback in the form of a survey or otherwise?					
When withdrawing, do you familiarize yourself with HRPC Rule 1.16 on protecting client interests upon termination?					
Do you notify clients promptly in writing that you're withdrawing from their case/matter because of unpaid bills, lack of cooperation or personality difficulties in accordance with court rules so as to not leave the client in the lurch? Are you careful about not revealing any client information in your social media?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Handling Funds</b>					
Do you review the Rules Governing Trust Accounting, Rule 4(c) to insure that you maintain the required trust account records?					
Do you securely store client documents or valuables?					
Do you have procedures in place to make sure you do not commingle your funds with those in your trust account?					
If you store tangible items for a client do you provide them with a detailed inventory list which they acknowledge is accurate in writing?					
Do you maintain a separate trust account for client funds?					
Is your trust account in a participating IOLTA bank in Hawai'i?					
Do you keep a client ledger for each client from whom you have taken a retainer or advance refundable fee (note you MAY NOT take nonrefundable fees in Hawai'i)					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Handling Funds</b>					
Do you keep a general ledger contemporaneously keeping track of every transaction involving the trust account?					
Do you reconcile your trust account bank statements with your general ledger and individual client ledgers each quarter or, preferably, each month?					
When you reconcile your trust account, do you make sure that the balance totals the grand total of your individual clients' trust balances and the general ledger balance?					
Have you ever used funds from your trust account for a short-term to meet payroll or other expenses?					
Have you taken a trust accounting class or used the trust accounting "practice pointers" on the ODC website?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Policies &amp; Procedures</b>					
Do you have a written office policies and procedures manual?					
Are your policies and procedures reviewed with staff on a regular basis?					
Do have a system in place to record appointments, court dates, etc. made outside the office to be sure they are logged on your master calendar?					
Does your docket control system (whether manual or computerized) include: a. Administrative hearing dates?					
b. All court appearances?					
c. Closing dates?					
d. Procedural deadlines?					
e. Pleading and discovery dates?					
f. Deadlines unique to your practice (real estate closings, creditor meetings, etc.)?					
g. Appointment/meeting dates?					
Does your docket control include a system to record the above dates/events immediately?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Policies &amp; Procedures</b>					
Does your docket control system allow: a. Lead time to complete work (i.e., early warnings)?					
b. Statute of limitations?					
Do you have a redundant docket control system as a back up?					
As a part of your docket control system: a. Do you routinely complete the work as prompted?					
b. If not, do you re-calendar work not completed?					
c. Do you calendar promises made to clients?					
d. Have you had an employee oversee your docket control system? If so, do you review for accuracy?					
Does your file management system include: a. Procedures for opening and closing files?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Policies &amp; Procedures</b>					
b. Daily filing?					
c. Periodic auditing of files for quality of documentation, promptness of filing, etc.?					
e. A file/document checkout procedure to avoid lost files?					
When closing files, do you: a. Send clients letters notifying them that you are not representing them any longer on this particular matter?					
b. Return any items of intrinsic value held in safekeeping and have the client sign for it?					
c. Use the letter closing the matter to the client as a marketing tool by noting other services you offer, etc.?					
d. Review the file before it goes to storage and note any reasons why the file should be maintained beyond the time agreed to with the client?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Policies &amp; Procedures</b>					
Are your closed files stored in a secure and safe location?					
If you utilize cloud storage have you taken steps to insure that the service is secure for the unique attorney/client confidentiality requirements?					
Do you have a system to easily retrieve stored files?					
When associating with co-counsel, do you have an agreement about fees in writing?					
Do you have a written plan and a successor attorney appointed in case something happens to you?					
With regard to the successor attorney, have you: a. Met with him or her recently?					
b. Scheduled regular (annually or bi-annually) meetings?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Management: Policies &amp; Procedures</b>					
c. Shown the successor attorney your filing system, where your passwords can be obtained, explained your caseload, demonstrated your calendaring system?					
d. Drafted and executed all necessary documents for the successor attorney to take action?					
e. Determined the parameters of the successor attorney's duties?					
f. Introduced the successor attorney to your staff, significant other or anyone else involved in your practice?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Sharing</b>					
<p>If you share office space with someone other than a partner or employee, do you engage in any of the following:</p> <p>a. Share stationary with your office mate's name on it?</p>					
<p>b. Advertise as a full service law firm?</p>					
<p>c. Advertise as an association of attorneys?</p>					
<p>d. Place the attorneys' names on the office door or other signage as if the office mates are partners or members of the firm?</p>					
<p>e. Refer to each other as partners?</p>					
<p>f. File court documents as partners?</p>					
<p>g. Have mutual bank accounts?</p>					
<p>Are precautions taken to preserve client confidences in an office sharing arrangement?</p>					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Office Sharing</b>					
Do you have a written partnership agreement that addresses what happens if a partner leaves the firm, becomes disabled, dies, or retires?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Partnerships and Shared Practices</b>					
Does your partnership agreement provide for: a. Compensation?					
b. Capital investment?					
c. Specific partner responsibilities (i.e., administrative, rain making, etc.)?					
Is your partnership agreement reviewed on an annual basis?					
Does your firm set aside dedicated time for a firm retreat to promote congeniality among partners and develop strategic plans?					
Do you have a written agreement with an Of Counsel member of your firm?					
Do you meet informally with your partner(s) on a frequent basis about firm issues?					
Do you have a checks and balances system so no one partner has the sole responsibility for a particular area?					
Do you have an agreed upon process to resolve disputes or disagreements among partners?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Technology</b>					
Have you taken the time to learn how to use technology in your practice?					
Do you provide regular training opportunities to staff?					
Do you regularly back up your computer system?					
Is a current copy of your computer back up stored off site in a secure location or in secure cloud storage?					
Is your back up system maintained by a different individual than the primary system?					
Do you routinely check if your back up is viable?					
Do you have a reliable computer consultant to assist you in emergencies or with updating your system?					
Are you using software for the following: a. Word processing?					
b. Accounting and financials?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Technology</b>					
c. Conflicts of interest?					
d. Calendaring and docketing?					
e. Case management?					
f. Law specialty programs?					
g. Legal research?					
h. Litigation support?					
Are laptop computers, tablets, or smart phones sufficiently secured to protect confidential information in case of lost or theft?					
Are you careful when using a cell phone, laptop, or tablet in public so as to not review client confidences?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Supervising Staff</b>					
Have you reviewed HRPC Rules 5.1, 5.2, and 5.3, on supervisory and subordinate lawyers?					
Do you review confidentiality requirements with staff and have them sign a form agreeing to maintain client confidences?					
Do you make sure that client files, correspondence or others are kept out of view of others?					
Do you caution staff about office conversations, telephone conversations or social media communications about client confidences?					
Do you caution staff about giving legal advice even if they know (or think they know) the answers?					
Are efforts taken to protect client confidences from vendors, cleaning staff and others?					
Do you properly delegate work and oversee staff?					
Do you caution lawyers and non-lawyers on your staff not to become romantically involved with current clients?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Supervising Staff</b>					
Do you train staff about how to handle rude, disrespectful or upset clients?					
Do you routinely provide feedback about performance and offer guidance when improvements are needed?					
Do you maintain a congenial work environment?					
Does your staff know your schedule and how to reach you when you're not in the office?					
Are you approachable by your staff concerning troubling issues or suggestions for improvement?					
Have you trained your staff about the proper handling, recording and accounting of your trust account?					
Do you have frequent staff turnover?					
Do you tackle personnel problems when they occur?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Conflicts of Interest</b>					
Did you review HRPC Rules 1.7—1.11 on conflicts?					
Do you engage in any of the following practices: a. Act as both counsel and an officer or director for a corporation?					
b. Have a financial interest (other than fees) in a client matter?					
c. Purchase real estate from a client?					
d. Hold the position of beneficiary in a client's will?					
e. Engage in any direct business transactions with a client?					
f. Concurrently represent actual or potential adverse parties?					
g. Rely on your memory to identify former representations which may pose a conflict?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Conflicts of Interest</b>					
Do you have either a comprehensive electronic or manual system to check for conflicts that is available to all attorneys and staff in the firm?					
Do you request detailed information from prospective clients (i.e., former names, alternate spellings, adverse parties, etc.) to discover conflicts?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Billing</b>					
Do you keep accurate time records that are promptly recorded?					
Do you keep details of work performed for billing purposes?					
Do you accept credit cards from clients for payment? If so, do you have a plan or software for handling credit card fees and for ensuring that retainer/unearned fees are sent to a client trust account, while earned fees are sent to your operating account?					
Do you review all client billings before they're mailed to clients?					
Do you occasionally "no cost" and item or note work done but not billed?					
Do you bill your clients on a regular basis (i.e. monthly)?					
If applicable, do you require clients to keep a reasonable amount on deposit in your trust account as an advanced payment on fees?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Billing</b>					
When concluding a matter where you've been hired on a contingency basis, do you provide a detailed accounting of fees and expenses?					
On contingency fee arrangements, do you provide regular billing statements about expenses even though there are no fees due?					
Do you have a written collections policy? a. If so, are client accounts reviewed regularly?					
b. Are clients contacted early about past due billings to determine if it's an economic issue or dissatisfaction with the firm's service?					
Do you regularly continue to work for clients who are seriously delinquent?					
Do you have excessive accounts receivables?					
Do you emphasize verbally and in your fee agreements that the failure to pay timely may result in you withdrawing from their case?					
If you charge a late fee, is it clearly outlined in your written fee agreement and discussed with the client?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Billing</b>					
If applicable, on a daily basis, do you regularly keep time and post it to client accounts?					
Do you send a final billing statement immediately after the client's matter has concluded rather than waiting for the regular billing cycle?					
Do you sue clients for past due fees or look for other ways to resolve the issue?					
Do you write off a substantial amount of unpaid billings each year?					
Do you tell clients "not to worry about the fees" right now or you'll get your fees from the other side?					
Do you have at least a basic understanding of accounting principals?					
Do you regularly schedule time to review your firm financials?					
Do you frequently have cash flow problems?					
Do you develop an annual budget and monitor the budget?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Billing</b>					
Do you have an electronic accounting system?					
Do you have safeguards in place to avoid and detect employee theft?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Marketing Your Firm</b>					
Are you attracting new, quality clients to your firm?					
Are you retaining quality clients?					
Do you have a written marketing plan that you follow to attract new clients or maintain current clients?					
When you close a file, do you survey or at least ask your clients about their experience with your firm?					
Do you ask new clients what brought them to your firm?					
Do you call or write to thank other attorneys or clients who refer new clients?					
Do you set aside time each week to market your firm (client lunches, contacts with other lawyers who might refer you business, etc.)?					
Are you up-to-date with the current advertising rules?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Marketing Your Firm</b>					
Do clients often refer new clients to your firm?					
Do other lawyers often refer new clients to your firm?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Personal Work Habits</b>					
Are you aware of the confidential resources provided by the State Bar's Attorney Assistance Program (AAP) to assist lawyers dealing with substance or alcohol abuse issues?					
Do you frequently procrastinate when you should be working on client matters?					
Do you make daily entries of the work that was performed for each client and by whom, including phone calls, emails, research, etc.?					
Do you make a daily work plan with priorities that you follow closely?					
Do you delegate work to staff, prioritize and communicate when the task is due?					
Do you use checklists for substantive law and administrative tasks?					
Is the stress in either your personal or professional life affecting your work?					
Are you involved with bar activities or have connections with a network of other lawyers?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Personal Work Habits</b>					
Do you frequently avoid returning calls to clients because you haven't completed the work on their matter?					
Do you have trouble staying focused on your work?					
Do you find that you're constantly in a last minute panic and always putting out fires?					
In your daily practice, do you a. Conduct adequate research to support your position?					
b. Hold yourself out as experienced or an expert only in those areas in which you have special skills?					
c. Do you consult with experts in fields outside your practice specialty (CPAs, other lawyers, etc.)?					
d. Consistently check for new developments in the area of law in which you practice?					
e. Do you use checklists in the preparation of legal documents?					

Inquiry	Yes	No	N/A	Notes/Comments	Note improvements needed & dates for follow up
<b>Personal Work Habits</b>					
Do you frequently make plans concerning your work or your practice, but seem to have trouble follow through?					
If asked, would others suggest that you have a good reputation as a lawyer?					
Do you often let work on your clients' matters slide because you're too busy?					
Would you say that you're normally organized?					
Do you schedule (and put on your calendar) uninterrupted blocks of time to concentrate on your work, without taking calls or emails?					
Do you let client files pile up on your desk?					
Are you always honest with your clients and other lawyers?					
Do you take time away from work on a regular basis to relax?					