

E&O Edge

Lawyers Professional Liability Protect yourself by complying with ethical rules when sharing office space

There are ethical rules and opinions in each state that implicate office sharing arrangements. The reason for this is because it is easy to violate the rules in a shared office space.

You might be considering sharing office space, or already do. Certainly, there are advantages to such an arrangement, such as reduced overhead costs. However, pitfalls that you should consider before sharing office space are:

Protection of the Attorney-Client Privilege

Shared office space should always protect the attorney-client privilege. If there is a shared receptionist, they should be trained not to divulge specifics about your clients to your non-employees and they should not have access to confidential information. You should avoid sharing associates and assistants to protect confidential information and to avoid any conflicts.

You should safeguard your client's files by keeping them secure and separate from those of your officemate. That is especially important when complying with HIPAA requirements. Your computers and fax transmissions should also be kept separate to avoid access to confidential client information. You should close your office door when engaging in protected communications with your clients and staff.

If you confer about cases with the other attorney, you should avoid discussion of details that would identify your client.

Limiting Liability

Your client should be fully advised of your office sharing arrangement.

There should be a clear delineation that your firm and that of your officemate are not the same entity. You should maintain separate letterhead, fax machines, business cards, websites and email addresses. Both firm names should be on the door. If you have a shared receptionist, they should not create the impression that your firm is related to the other firm. You and the other attorney should not serve as "of counsel" to each other. You should also avoid covering matters, such as court calls, for your officemate and vice versa.

If you represent a client adverse to that of your officemate, your state's rules of ethics may require consent from your client.

Referrals

You should comply with all ethical rules regarding referrals. Your retainer agreement should clearly set forth who will represent your client. If you refer a case to your officemate, you should get prior written consent from your client.

You should also implement a written referral agreement with your officemate for each matter that is referred. The referral agreement should specify who will work on the case and what your involvement will be.

If you refer the matter entirely to your officemate, you should not have any discussions with your officemate on the case, to avoid any false impression in the client's mind that you are supervising the case.

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