



LAWYER TO LAWYER MENTORING PROGRAM

WORKSHEET HH

INTRODUCTION TO LEGAL COUNSELING

Worksheet HH is intended to facilitate a discussion about proper legal counseling techniques, and duties and responsibilities of advising clients.

WHAT WENT WELL?

Start by sharing with each other a brief story of something that went well in your practice this week:

Share your reflection by on one of these questions: What caused the good event? What does it mean? How did you contribute? Others? How can you have more such events in the future?

ACTIVITIES FOR TODAY

- Discuss the different roles a lawyer plays with clients in advising them. Discuss how to share with clients non-legal considerations for your informed decision-making while not delving into areas which are outside a lawyer's expertise. See Tennessee Rules of Professional Conduct Rule 2.1 and the attached book excerpt, from Stanley S. Clawar, *You and Your Clients: A Guide to Client Management Skills for a More Successful Practice* at 95 - 97 (2nd ed.1996).
- Provide examples of the types of decisions in the mentor's practice in which he or she involves the client. Share tips on counseling the client for each of those decisions.
- Discuss the importance of being sensitive to emotional aspects of clients' cases but not becoming emotionally involved in their matters. Discuss what to do if you do become emotionally invested in a case.
- Discuss the ethical obligations a lawyer has in advising his or her clients. What does it mean to make sure clients are informed in their decision-making? What should you do if your client elects a course of action against your advice? Tennessee Rules of Professional Conduct Rule 1.2.
- Discuss the basic elements and techniques for counseling a client, including the following:
 - Talking to the client about time. How long the case will take, what could delay it, what the opposition could do to prolong it, etc.



- Considering cost. What types of expenses should be expected, how much the case could end up costing.
 - Discussing the upsides and downsides of the case.
 - Focusing the interview. How to outline what will happen during the meeting with the client and keep on track.
 - Being a good listener.
 - Advising fully on all relevant considerations or consequences to a course of action.
 - Following up.
 - Informing the client of privilege issues when the client wants a third party involved during meetings.
 - See Tennessee Rules of Professional Conduct Rule 1.4.
- Discuss how to inform clients of problems in their cases. Read and discuss the attached book excerpt from Noelle C. Nelson, *Connecting with Your Client* at 59 – 67 (1996).

ACTION STEPS

End the session by discussing what action steps you can take to either improve or set yourself up for future success based on today's discussion. Discuss how one or more of your Signature Strengths can help you achieve success in these steps.

RESOURCES

TENNESSEE RULES OF PROFESSIONAL CONDUCT

I. CLIENT-LAWYER RELATIONSHIP

RULE 1.2: SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by RPC 1.4, shall consult with the client about the means by which the client's objectives are to be accomplished. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(c) A lawyer may limit the scope of representation if the limitation is reasonable under the



circumstances and the client gives informed consent, preferably in writing.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows or reasonably should know is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

RULE 1.4: COMMUNICATION

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in RPC 1.0(e), is required by these Rules;
- (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 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 the Rules of Professional Conduct 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

II. COUNSELOR

RULE 2.1: ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation.

View complete rules and comments at: <http://www.tsc.state.tn.us/rules/supreme-court/8>.