

## Lessons in Office Sharing

by

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What should I do with that empty office space? As lawyers look for ways to make their practices more economically efficient, one of the ways they are doing so is to enter into office-sharing arrangements. These arrangements can be as simple as renting out an empty office or as complex as setting up an office suite made up of solo practitioners.

While there is nothing to prevent office sharing by lawyers, there are several ethical considerations in making such arrangements.

Rule 1.6 of the Minnesota Rules of Professional Conduct provides that except in limited circumstances “a lawyer shall not knowingly reveal information relating to the representation of a client.”

With limited exceptions, a client should be able to trust that information shared with an attorney will not be revealed. When sharing office space with either a nonlawyer or lawyer not in your firm, an attorney has a duty to take steps to prevent the revelation of client information. It is imperative that a lawyer who is sharing office space puts into place procedures to ensure that others in the office and outside of the lawyer’s firm do not have access to confidential information.

For example, consideration and planning must be given to how mail, telephone calls and information from the client should be handled. Thought should be also given to how to handle client property and how to secure such property, as well as whether each office sharer should be given designated space where they can secure their client files and property.

If the office-sharing arrangement provides for the sharing of support personnel, arrangements should be made to make certain that support personnel are familiar with the rules of professional conduct. Proper measures should be taken to ensure that the support personnel act in compliance with the rules.

Rule 5.3 provides that an attorney with supervisory authority has the responsibility to make reasonable efforts to ensure that nonlawyer employees act in accord with the rules of professional conduct. Additionally, Rule 5.3 provides a lawyer may be in violation of the professional rules for the conduct of a nonlawyer which would violate the rules.

When sharing office space, the lawyer needs to be careful that the setup does not mislead the public about the lawyer’s service. Rule 7.1 provides that a “lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it contains a material

misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.”

The comment to Rule 7.1 makes it clear that omissions of fact can warrant a violation of the rule. The lawyer must be careful to not create unjustified expectations. For example, a solo practitioner office sharing with a firm should make clear that he or she is not a part of the firm because failure to do so may lead to an unjustified expectation in the client.

In addition, if referring cases between office sharers, the lawyers need to be clear with the client that they are not in the same firm and that they act independently.

When entering into office-sharing arrangements, lawyers should not only think about the financial arrangements but also about the ethical implications. A lawyer should look at how to maintain client confidentiality, how support staff will be supervised and how communication relative to the lawyer’s practice will be received.

With careful planning the lawyer can create a successful and cost effective office-sharing arrangement, while remaining ethical.