

## Risk Control Recap: Top 5 Resources

### Introduction

The first step in mitigating the potential for legal malpractice claims is to understand the risk exposures encountered in the daily practice of law. The top five risk control resources for CNA-insured attorneys are provided here for your convenience. The resources address the importance of engagement agreements, responding to cyber breaches, the role of legal support staff in preventing legal malpractice, adapting to clients with diminished capacity and the expansion of outside counsel guidelines. Please click on the title of each resource to access the complete document.

### Risk Control Resources

#### [Lawyers' Toolkit 4.0: A Guide to Managing the Attorney-Client Relationship](#)

Documentation of the attorney-client relationship represents a critical risk control technique. CNA has developed the following *Lawyers' Toolkit 4.0: A Guide to Managing the Attorney-Client Relationship* to assist attorneys in creating documents that will enable them to better manage their interactions with potential and actual clients. Documentation of the scope of the representation and the mutual responsibilities of the attorneys and their clients can often be a deciding factor in determining the responsibilities of both parties. These sample documents are designed to establish client expectations, reduce client misunderstandings, improve client communications, and provide opportunities for additional services. The use of these documents may not prevent legal malpractice claims, but can support a stronger defense in the event a claim arises.

#### [Law Firm Data Breaches: A Legal Snapshot](#)

By now, attorneys recognize that law firm data security has become a top concern for clients, regulatory agencies and state legislatures throughout the country. Countless firms have suffered data breaches, from solos to Big Law, but beyond the initial headlines, early settlements and sealed records have left a paucity of case law governing post-breach liability.

As a result, many attorneys are left to wonder about the aftermath of a data breach and their potential exposure in an area of law that is rapidly evolving and far from settled.

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### Law Firm Support Staff: Recognizing Their Role in Avoiding Legal Malpractice Claims

They hold various titles for their daily roles in the practice of law: paralegal, legal secretary, paraprofessional, law clerk, project assistant, docketing clerk, research assistant, and the list is ever expanding. Regardless of their title, members of law firm support staff serve a critical role in the daily practice of law. Their work, when performed with proper guidance and supervision, not only keeps a legal practice running but also helps to mitigate and avoid legal malpractice claims. Over the entire span of a client representation, law firm support staff is critical to supporting the development and maintenance of professional attorney-client relationships.

### Clients with Diminished Capacity: Rising to the Challenges of an Aging Clientele

The United States Census Bureau estimates that the percentage of the American population age sixty-five or older will increase from 15% to 20% by 2030. While the aging of the population is in many ways something to celebrate, it will present new challenges to working professionals, and attorneys are no exception.

As more people live longer and work longer, attorneys will encounter more clients who have reached an advanced age, whether they are seeking to purchase real estate, sell their business, pursue a personal injury claim, or get married. Engaging with a greater number of older clients also means, tragically, working with a greater number of clients at risk for Alzheimer's disease and other cognitive disorders.

### Fighting the Trojan Horse: Managing Outside Counsel Guidelines

If there is one thing keeping law firm general counsel awake at night, it is the myriad of outside counsel guidelines (OCGs) that may be floating around the firm. OCGs are documents sent by the client (generally, large corporate clients and insurers) to the lawyer setting forth various terms of the engagement. These OCGs differ from client to client, may be dozens or hundreds of pages in length and, as shown in this article, may incorporate requirements that the firm cannot meet.

This article focuses on the issues surrounding how to manage OCGs.



For more information, please call us at 866-262-0540 or email us at [lawyersrisk@cna.com](mailto:lawyersrisk@cna.com).

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