04

Managing a Mentoring Relationship

PracticePRO™

Risk management, claims prevention and law practice management resources from LAWPRO

Contents

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What is mentoring?

This booklet is for mentors and mentees who are looking for practical advice about how to make a mentoring relationship work. The general guidelines and sample forms will assist in establishing a broad framework for a mentoring relationship, and parties interested in greater guidance will learn how to prepare for, structure, and participate in a mentoring relationship.

LAWPRO advocates mentoring as a tool for improving skills, reducing practice risk, and avoiding claims. To encourage mentoring, LAWPRO waives any deductible or claims history levy surcharge for a claim made against a mentor that arises out of a mentoring relationship, provided some simple rules have been followed. Visit our Mentorship page for more information

Benefits of mentoring

No matter the background of the participants, a mentoring relationship can accelerate the acquisition of critical skills and help prevent mistakes for all parties. Mentoring can also pay dividends beyond the individual participants, supporting the profession as a whole by reducing the isolation of lawyers, especially new or sole practitioners, or lawyers moving into a new area of practice.

Mentee benefits include:

- **Increased self-awareness:** feedback from a trusted partner can support powerful insights that lead to personal growth
- **Capitalizing on strengths and exploiting hidden talents:** a good mentor will encourage a mentee to exploit known strengths and discover hidden talents

- **Greater practice success:** expert guidance from a mentor can help a mentee achieve success in an individual practice and/or make a more valuable contribution to a firm
- **Career satisfaction:** as mentees develop the skills that support success, they enjoy greater career satisfaction
- **An expanded personal network:** a mentor can often introduce a mentee to the individuals in the mentor's network
- **A source of referrals:** once a mentor trusts a mentee's abilities, the mentor may refer work to the mentee

Mentor benefits include:

- **Increased self-awareness:** organizing one's ideas to be able to share them with a mentee requires useful self-reflection
- **Satisfaction of passing on knowledge:** many mentors gain great satisfaction from sharing their knowledge
- **Supporting the mentee's contributions to the mentor's firm** where both work for the same firm
- **Acquiring new knowledge:** mentors may learn from a mentee's skills or experiences, and preparing to serve as a mentor often becomes a refresher in law and strategies
- **An expanded personal network** that now includes the mentee and the mentee's contacts
- **A source of referrals:** the mentee may refer to you work that they are not comfortable with
- **Someone to delegate to:** a mentee may gain the mentor's trust and become someone they can delegate work to
- **Increased confidence** from perceiving oneself as an appreciated source of advice and direction
- **A means of staying in touch with younger or less experienced members of the bar**, and a way to stay current with issues and developments affecting the next generation of professionals

Myth: It will take too much time

Fact: Participants in mentoring relationships consistently report that mentoring takes less time than they expected. One or two short phone calls a week or every few weeks is often all that is required. Participants can minimize inconvenience by being clear about their expectations and managing their time effectively.

Myth: Only seasoned practitioners make good mentors

Fact: While lawyers who have been in practice for five to ten years often assume they are not ready to mentor, they may be better placed to do so than those who have been practising longer.

The five to ten-year lawyer has more recent experience handling the issues faced by new lawyers, and so may be in a better position to help than senior practitoners. Recognizing this, law firms today often assign senior associates to mentor junior associates, while the senior associates are being mentored by partners.

Myth: Only newly-called lawyers can benefit from being a mentee

Fact: Mentoring can benefit even experienced lawyers. For example, access to a mentor can shorten the learning curve when expanding a practice into a new area of law. Similarly, an experienced lawyer joining a new firm could benefit from a short-term mentoring relationship. Having a mentor helps the new law firm member learn the firm's procedures, and facilitates introductions to its clients and other contacts.

How to find a mentor

Fortunately for potential mentees, there are many routes to finding a mentor in today's legal profession. While some mentorship relationships begin organically – a lawyer in need of a mentor meets another lawyer eager to serve in the role – lawyers who can't identify a mentor in their pre-existing circle can turn to a formal mentoring program to find a match.

Many large firms have established mentoring programs that either automatically assign mentors to newcomers, or support the development of these relationships for those lawyers who request it.

For lawyers without access to a firm program, there are other options, including those provided by various law associations, such as the Advocates' Society, the Women's Law Association of Ontario (WLAO), the Canadian Association of Black Lawyers (CABL), and the Federation of Asian Canadian Lawyers (FACL). For a more comprehensive list of associations that offer such services, see PracticePRO's list of mentorship programs.

Don't be afraid to ask

One obstacle many mentees face is their reluctance to ask someone to be a mentor. This reluctance is quite common, and for many is rooted in the embarrassment of having to acknowledge that they may need help, or in a fear of rejection.

Lawyers can overcome this reluctance by focusing on their goals and needs. Seeking support is a responsible approach to improving a practice, and those who ask for help often find that prospective mentors respond in a positive way. Mentors consistently report feeling flattered at being approached, and many welcome an opportunity to give back to the profession.

When seeking a mentor through an organized program, mentees can benefit from the comfort of knowing that the available mentors have signed up voluntarily and are eager to help.

How mentees can prepare

The first step is to identify goals, both general and specific, for the mentoring relationship. An example of a general goal might be “to become a better personal injury litigator.” Specific goals that support the general goal might include: to develop the skills necessary to conduct an examination for discovery; to learn to effectively cross-examine expert witnesses; or to gain an understanding of no-fault insurance regimes.

The process of identifying goals can help narrow the search for a prospective mentor to those who have the necessary background and experience.

How mentors can prepare

Assess your own experience

Self-reflection can help a prospective mentor define the teachable value in their personal experiences. To better understand themselves, mentors should reflect on the significant events in their lives, their successes and failures, the obstacles they encountered, and the lessons they learned along the way.

Any previous experience as a mentor or mentee should also be considered, so that the mentor can highlight past successes (and help mentees avoid any previously encountered pitfalls).

Assess the mentee’s needs

Next, the prospective mentor should consider whether their experience is a good match for the mentee’s goals and needs. This can help the mentor determine whether they can effectively support the mentee and help them achieve their goals.

Be prepared to withdraw

If, after self-reflection and consideration of the mentee's goals, the prospective mentor realizes they lack the necessary skills and experience to support the mentee in reaching the identified goals, the mentor should withdraw from the role to allow the mentee to find a mentor who is a more appropriate match.

Types of mentoring relationships

Mentoring relationships exist in a wide range of forms, with differing durations and degrees of formality. Mentoring relationships that develop organically can last indefinitely, but most mentoring pairings are more structured and time-limited.

"One-off" consultations

In many areas of practice, practitioners often have one-off phone calls or discussions with their friends or peers when they need some advice on a matter. The issues dealt with in these discussions usually do not relate to substantive law, but rather centre on practical, ethical, strategic, or other concerns.

Although not mentoring in its fullest sense, these types of discussions can be helpful, both to clarify the situation for the lawyer seeking advice and to help avoid a potential claim. However, because they typically involve a limited sharing of information and context, they should be approached with caution.

Mentors can reduce the risk related to the giving of one-off advice by following these guidelines:

- Actively listen to the question being posed
- Take notes
- Be aware of any assumptions implied in the question(s)

- Don't assume any background facts or circumstances that are not stated; ask about any background facts or circumstances that you feel might be relevant to the question being asked
- Don't answer the question if you don't feel you have all necessary information or if you don't feel comfortable in doing so

Prescribed-format mentoring programs

Some of the mentoring programs offered through lawyers' associations are delivered according to a prescribed format. The Law Society of Ontario's Coach and Advisor Network offers four-hour coaching programs (spread over six sessions) and 30-minute advising sessions.

Some mentoring programs faciliate online discussions between mentors and mentees, often with the expectation that the relationship ends when the parties sign off.

Other programs offer brief "speed mentoring" sessions, modelled after "speed dating," designed to allow participants to address a few questions to, in some cases, multiple advice-givers over the course of a single program.

Finally, some organizations that facilitate mentoring focus on the matching process, leaving participants free to establish their own parameters for the relationship.

Law firm mentoring programs

Many law firms have embraced mentoring programs as a way to support new associates as they learn a firm's procedures, absorb its culture, and develop practice routines.

The benefits of a formal firm mentoring program include:

- Faster integration of associates: mentoring helps associates learn a firm's policies and procedures, and supports them in building relationships with lawyers and staff

- Clear practice development expectations: mentors can communicate a roadmap for mentees' practice development progress
- A broader perspective: associates who are encouraged to participate at different stages in a variety of different legal matters will have a better understanding of the practice of law

Establishing a successful mentorship

Although law firm mentoring programs vary in their formality and complexity, certain steps are critical to creating a successful mentoring program and culture.

The first meeting

Setting the terms for the relationship in some detail at an initial meeting will make the relationship stronger and more productive. This meeting should include an open and honest discussion of backgrounds and experience to help the prospective mentorship partners get to know each other. A successful first meeting will begin building trust and rapport, elements essential to the relationship's growth and success.

Discuss time concerns

Lack of time is the reason cited most often for failure of a mentoring relationship. Mentors and mentees need to understand from the start that mentoring involves a time commitment and should address any time concerns they may have. At an initial meeting, partners can set parameters for the time they will devote to the relationship.

Talk about expectations

Inconsistent expectations can cause a mentoring relationship to fail. Both mentor and mentee should openly discuss what they expect to gain from the relationship, how they will communicate, and how they will respect confidentiality and boundaries.

Once a mentor and mentee have determined that they are a good match, the next step is to establish the objectives and parameters of the relationship. Even if the parties don't contemplate the preparation of a formal agreement, it is useful to come to a meeting of the minds with respect to some basic terms.

Additionally, in order to ensure that the mentor is exempt from a claims history levy surcharge or payment of any deductible should a claim arise out of the mentor's mentoring activities, the existence of a formal mentoring relationship must be documented in a written communication of some kind (see LAWPRO's Mentorship information).

Setting goals

Before embarking on a mentoring relationship, the prospective mentor and mentee should review the mentee's goals. The goals should be specific, attainable, and measurable, and there should be some discussion of how the mentor and mentee can work together to achieve the specified goals. The mentor can help by pushing the mentee to set challenging or "stretch goals" that push the mentee outside of their comfort zone.

Establishing boundaries

The parties should clarify at the outset any limits placed on the relationship in terms of subject matter, time, and confidentiality.

Professional issues commonly discussed in mentoring relationships include strategic, ethical, marketing, and networking. More practical inquiries can include how to handle a difficult client, opposing counsel, or member of the bench. Although generally within boundaries, questions related to pure substantive law issues are not the primary focus of most mentoring relationships, though it may come up if the mentee is learning a new area of law.

Strictly personal issues are frequently considered out of bounds. To encourage open disclosure, some law firms assign a mentor outside of the mentee's practice group to help deal with personal issues in confidence. When mentor and mentee are from different firms, it will be up to the participants to agree on how to handle personal matters.

Activities that are commonly out of bounds in mentoring relationships include direct involvement in dispute resolution, acting as an advocate for the mentee's career advancement, lending money, or discussing financial matters.

As part of the boundaries discussion, the mentor and mentee may want to discuss how obstacles or problems are to be dealt with, and how and when to end the relationship.

Protecting confidentiality

Confidentiality and conflicts of interest can be sensitive and complex issues in a mentoring relationship. Because of the nature of the relationship, personal information, as well as information that should remain confidential in the context of a solicitor/client relationship, may be disclosed.

Privileged or confidential client information

Where the lawyers in a mentoring relationship are from different firms, they must consider the content of their discussions in the context of the Rules of Professional Conduct. Rule 3.3-1 states that a lawyer must hold in strict confidence all information received from a client in the course of a solicitor/client relationship. Disclosure is only permitted or justified in limited circumstances, and both participants must keep these parameters in mind during all interactions.

Other confidential or personal information

It is important that an agreement be reached at the start of a mentoring relationship about what information is to be confidential. Is the existence of the relationship itself confidential? Under what circumstances will anything that is discussed be disclosed to parties outside the relationship? Parties should not simply assume that their communications will be kept in confidence.

In some mentoring relationships, it is simply agreed that the mentee will not disclose confidential or personal information to the mentor. Although this approach can limit the topics dealt with in the relationship, it does ensure that mentor and mentee avoid issues or problems arising out of the disclosure of sensitive information.

To promote more open communication between mentor and mentee, some firm mentoring programs provide that all mentoring discussions remain confidential. Other firms allow disclosure only in limited circumstances. The range of options with respect to confidentiality includes:

- Everything is confidential indefinitely, unless disclosure is required by law
- Disclosure can occur on a demonstrated need to know basis, with permission
- Disclosure can occur to a supervisor only
- Disclosure can occur with permission only
- Some identified things can be disclosed, others will not
- The nature of the discussions, but not the details, can be disclosed; or
- Everything can be disclosed

Firm partners may decide to confirm how and when disclosure can occur in a mentoring contract. If confidential or personal information must be disclosed to a third party for legal or other reasons, the mentor should advise the mentee that a disclosure of confidential information will occur, and why.

A mentoring contract

The form that a mentoring contract or agreement takes is not as important as its contents. Although a formal contract is not necessary, putting terms into writing can help define both the goals of the relationship and the practicalities of how it will work, as well as protect the mentor from paying the deductible and claims history levy surcharge (in addition to the other necessary requirements).

A simple mentoring agreement should set out: the parties' goals; their expectations about how often and by what medium they will communicate; any specific responsibilities that either partner is to assume; boundaries with respect to issues to be covered; guidelines for the treatment of confidential information; a release and hold harmless clause; how and when the relationship is to end; and any other terms agreed on by the parties.

The agreement should also include an acknowledgement of the guidelines required by LAWPRO to allow a mentor to avoid a deductible and claims levy surcharge in the event of a claim arising from the relationship (see the next section).

Part 4: Mentoring and LAWPRO's Professional Liability Insurance

It is a common misconception that acting as a mentor exposes a lawyer to a greater likelihood of a professional liability claim. In fact, LAWPRO rarely sees claims arising out of mentoring relationships.

We believe that mentoring can reduce claims. To encourage lawyers to participate in mentoring relationships, and in particular to encourage lawyers to act as mentors, we have undertaken several initiatives to facilitate mentoring in the legal profession, including waiving the deductible and claims levy surcharge on any claim made against a lawyer mentor arising out of a mentoring relationship, provided that the relationship conforms to the LAWPRO mentoring guidelines. Qualifying mentoring activities will also be protected under a lawyer's run-off coverage, where that coverage is available (see the LAWPRO Policy for full details).

LAWPRO mentoring relationship guidelines

LAWPRO will waive the deductible and claims levy surcharge on any claim made against a lawyer mentor arising out of a mentoring relationship where:

- The mentor and mentee agreed to enter into a formal mentoring relationship, as evidenced by a written document of some kind
- The mentor had no contact with the mentee's client that would create a solicitor/client relationship, and
- The mentee understood that they were responsible for individually and independently satisfying themselves of the soundness of any suggestions, recommendations, or advice-like comments made by the mentor

The written document evidencing the relationship does not have to be a formal signed mentoring agreement. It can be as simple as an email acknowledging the relationship and the three terms listed above.

Every mentoring relationship must find its own equilibrium. As time passes, the partners will get to know each other and a stronger personal relationship will develop.

There are also several things participants can do to promote the success of the relationship. Effective and candid communication is key. Both partners should try to ensure time is used as efficiently as possible, and both mentor and mentee should monitor the progress to ensure that the mentee's learning goals are achieved.

The art of positive feedback

One of the most important aspects of a mentoring relationship is how the mentor provides advice and feedback to the mentee, and how the mentee responds to that communication.

Giving feedback in a positive and constructive way is a skill that mentors may need to work to develop, just as receiving feedback without getting defensive will be a skill required by mentees. To ensure it is well received, feedback should be thoughtful, specific, timely, candid, and constructive. When considering how to frame communication with a mentee, the mentor should focus on nurturing the mentee's growth by facilitating an accepting, open, and affirming learning atmosphere.

For example, when asked a question, the mentor should avoid the temptation to instantly offer an answer; instead they should make an effort to listen and to strive to fully understand what is at issue. The mentor may next challenge the mentee to think about different possible solutions to the question. Using open-ended questions that start with "how" or "what" may help direct the mentee to the answer. This technique will help the mentee develop the ability to to think about problems more critically and arrive at a solution on their own.

Finally, mentors should celebrate mentee successes while not shying away from talking about failures and what can be learned from them. With patience and time, the partners will develop a good rapport and the mentee will develop increasing confidence.

Overcoming obstacles

The most common obstacles in mentoring relationships are:

- The mentee wants too much time
- The mentee needs too much help
- The mentee seeks help on personal or other issues that are outside the agreed upon boundaries for the relationship
- The mentor is too busy or is inaccessible; or
- Other unforeseen or unexpected circumstances affect the ability of one of the partners to participate in the relationship as originally agreed upon

The key to overcoming obstacles is to make sure both mentee and mentor identify them early and are prepared to address them. A partner who is upset or struggling with some aspect of the relationship should be candid with the other partner. If the partners find themselves unable to work together to resolve the issue, it may be best to end the relationship.

Making efficient use of time

The time available for a mentoring relationship can be maximized with careful planning. These tips may help:

- Be diligent about scheduling and keeping appointments, and returning emails and phone calls
- The quality of time spent together is more important than the quantity; avoid multitasking at mentoring meetings, focusing instead on the issues at hand

- Prepare fully and in advance for discussions or meetings
- If appropriate, start each session with a progress review so that the session focuses on the issues of highest priority
- Book a follow-up session to assess the effectiveness of strategies agreed on at a meeting
- Monitor the time spent and look for opportunities to use time more effectively
- If existing time commitments become difficult to meet, before abandoning the relationship, consider changing the parameters so that the partners can continue to consult with each other in a way that works for both

Evaluate the relationship as it progresses

To ensure the relationship is on the right track, mentor and mentee should take stock after regular intervals – once a quarter may be appropriate in the beginning – to evaluate their progress. In preparation for these meetings, mentor and mentee should ask themselves the following questions:

- Are we on track to reach our stated goals?
- What do I think of my mentor/mentee? How well are we communicating?
- What is working well and why? What could be better?
- What are we spending too much time on? What are we spending too little time on? How can we use our time more effectively?
- Are there any other changes we can make to improve the relationship?

As the primary beneficiary in the relationship, the mentee should take the lead in making sure reviews occur. Evaluating the relationship's progress reminds both partners of its goals, and helps them focus on how to improve things going forward.

Winding up the relationship

A formal review and clear end to a mentoring relationship can make it a more positive learning experience for both mentor and mentee. This is the case regardless of whether a mentoring relationship is ending because its goals have been reached, if it has run out of steam, or has to be terminated due to other unforeseen circumstances.

The end should be seen as an opportunity to review what did and didn't work in the relationship, and more importantly, to reflect on the results, so that every lesson that can be learned from the relationship is recognized. Both partners should celebrate its successes, acknowledge its failures, and conclude the relationship with positive feelings.

Partners who are interested in continuing to work together could use this formal ending as a springboard for new discussions aimed at setting new goals for a new mentoring relationship.

If the relationship is being dissolved, the mentor may be willing to continue acting as a resource for the mentee, albeit in a less frequent and more informal way. In many cases, the partners opt to stay in touch after the relationship is concluded.

And to bring the process full circle, mentees should consider passing on the knowledge and skills they gained by entering into a new mentoring relationship – as a mentor.

LAWPRO is a strong supporter of mentoring, not only because of its potential to reduce claims but also because we believe it fundamentally benefits the cohesion of the legal profession and supports the success and career satisfaction of individual lawyers. We encourage lawyers to get involved either as mentors or mentees. To help, we've included a precedent for a simple mentoring agreement and a link to a list of mentoring programs. If you work at a law firm, we encourage you to develop a mentoring program and culture at your firm.

Sample mentoring agreement

The undersigned do hereby agree to enter into a mentoring relationship for a period of xx.

The Mentee's goals for this relationship are:

- To become a better personal injury litigator
- To improve skills for conducting examinations for discovery
- To improve skills for cross-examining expert witnesses

The parties hereto agree and acknowledge:

- To be available for consultation by telephone or email during regular business hours, and occasionally in person
- To meet in person quarterly to review the progress of the relationship, and to discuss how the relationship can be improved
- That the Mentor will look for opportunities to introduce the Mentee to other members of the local bar
- That they will discuss any obstacles or challenges to the relationship
- That all matters discussed in the course of the relationship shall be kept confidential, unless both parties agree that disclosure can occur
- That the Mentor will not assist the Mentee with the following:
    - direct involvement in dispute resolution;
    - acting as an advocate for career advancement; or
    - the lending of money or financial matters;
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- That the Mentor will not have any contact with a client of the Mentee that would create a solicitor/client relationship
- That the Mentee is responsible for individually and independently satisfying themselves of the soundness of any suggestions, recommendations or advice offered by the Mentor
- That the Mentee will hold the Mentor harmless for any professional liability claim arising on a matter about which the Mentor provided advice to the Mentee, and
- That the Mentor will not be subject to any deductible or claims levy surcharge on any claim against a Mentor arising out of this mentoring relationship

________________ as "Mentor" Date: ________________________

________________ as "Mentee" Date: ________________________

For available mentoring relationship opportunities, visit PracticePRO's list of mentorship programs.

LawPRO®

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