

Getting the Most from Your Attorney

Your attorney can be one of your most valuable resources. How can you leverage this resource to derive the greatest benefit for your organization?

View legal fees as simply the cost of doing business, rather than an unwelcome expense. Often, staff and volunteers avoid seeking the advice of legal counsel due to concerns about expense and instead, opt for consulting colleagues, posting messages on list serves, etc. But not all programs are created alike. You, no doubt, need legal advice tailored to your unique situation. Remember that the value received (reduced legal vulnerability) will likely exceed the fees paid.

Establish guidelines regarding the types of issues for which staff/board should consult legal counsel. These guidelines will help to ensure that everyone consults legal counsel appropriately.

Keep a log of legal advice given. Refer back to the log to determine if advice has already been sought for a similar situation. Many situations arise more than once (e.g., a failing candidate requesting to see the full exam with the answer key) and you may be able to follow earlier advice rather than seeking consultation again on the same matter.

Request a legal audit of your program if you are uncertain when the program was last reviewed or exactly what was audited. Program eligibility requirements, assessment practices, policies and procedures, operations, and communications change over time. Be sure that what you have in place today passes legal muster.

Give your attorney all the details. Provide your attorney with a detailed explanation of the situation and the events leading up to it, as well as a description of how staff/volunteers have handled the situation thus far. Don't forget to include internal and external communications related to the situation. Sometimes details that seem irrelevant can be critical. Don't let concerns about billable hours cut your legal consultation short.

Ask your attorney probing questions about the legal advice given. Probing questions help you to better understand the rationale and concepts behind the advice, which may prove beneficial when similar situations arise in the future.

Consult with an attorney who has experience in credentialing law. Attorneys, like physicians, have specialty and subspecialty expertise. You would not consult a dermatologist for cardiac symptoms and you should be equally discriminating when selecting your attorney. Not all attorneys who specialize in not-for-profit and association law have credentialing expertise. Your general counsel may opt to team with a credentialing law specialist or may recommend that a specialist be retained to work independently with your certification board or oversight committee.