

CHAPTER 2

SELECTING AN ATTORNEY

This chapter has been designed to assist you in choosing and an attorney. It has been divided into three sections. Just as different patients need different doctors, different nurses need different lawyers. In the same way that a diagnosis leads to a particular physician/specialist, your specific needs should lead to a particular lawyer. The following tips should hopefully take away some of the stress associated with hiring a lawyer and make you a better consumer of legal services.

I. WHERE TO LOOK FOR YOUR ATTORNEY

Your choice of an attorney should be guided at the outset by the reason you need the attorney. An attorney who defends nursing malpractice cases is usually not one you would select to defend you in a complaint with the Board of Nursing, Department of Health, against your nursing license. These are both different from an attorney you might consider to represent you in defending against criminal charges or driving under the influence (DUI) charges. Usually, attorneys practice in or specialize in different area of the law.

The choice of attorneys may also be affected depending on whether you are being provided an attorney by an insurance company or if you retain the attorney yourself. In the first instance, the insurance carrier with whom you have your insurance may have attorneys it requires you to use. Nevertheless, you should still interview the attorney to make sure the attorney is experienced in the area of your legal problem. Remember, even if the insurance company pays the attorney, the attorney has an ethical obligation to you; his or her responsibility is to you.

Most insurance carriers that provide nursing malpractice insurance policies have panels of attorneys with whom they contract who are competent in nursing malpractice defense. Generally, the insurer will notify you of the name of the attorney it has selected as soon as it is apparent that a claim will be pursued. However, you should understand that you may have some choice in this matter. Almost all insurance companies, including those that specialize in lines such as medical or nursing malpractice, maintain a panel of defense counsel in each geographical area. They will often assign the particular attorney depending on the nature of the case or perhaps a rotation system they are maintaining among their panel members.

If you would like to have some input in this selection (which you should), you should ask the insurance carrier for the list of attorneys it uses in your area. Once you have that list, you may want to review it to determine which attorney you believe would be best suited for your defense. You may want to conduct research of your own into the qualifications of the attorneys, which you may do using the Internet or by calling the attorney and requesting a resume or other information. In many circumstances, the insurance carrier will agree to a choice of counsel among those within its panel unless they have a particular reason that it would be in your best interest to select otherwise. If such occurs you should have the reason explained to you.

In those circumstances where you are faced with a liability claim but have no insurance, or alternatively, where the matter does not involve a professional liability claim, the choice of the attorney will be left entirely up to you. In that circumstance the following sources may prove useful.

A. PERSONAL REFERRAL

An excellent starting point is word of mouth. Other medical practitioners who have been involved in similar actions may be able to lead you to an attorney. You may also want to ask other non-medical professionals who provide services to you for their recommendation. Some of the best resources are attorneys in other fields, accountants and insurance agents.

B. PROFESSIONAL ASSOCIATIONS IN YOUR SPECIALTY

One of the best sources for referrals is a professional association affiliated with your specialty. For example, the Florida Nurse's Association (FNA) may be able to recommend an attorney in your area who handles just the type of case you have. Its telephone number is: (407) 896-3261.

The American Association of Nurse Attorneys (TAANA) is another good source. It has a referral service for nurses. The members of TAANA are almost always both nurses and attorneys. It does have some members who have a great deal of expertise in representing nurses who are not nurses themselves. Its telephone number is: (877) 538-2262.

The American Health Lawyers Association (AHLA) has members who specialize in all different areas of health law. Many of these are nurses. Many of these have a great deal of experience in representing nurses. Its telephone number is (202) 833-1100.

The Health Law Section of The Florida Bar is made up of Florida attorneys who practice in the area of health law. The Florida Bar may not have a referral service that covers your geographical area (it only covers those which the local county bar associations do not cover). However, if you check the membership list for The Health Law Section of The Florida Bar, you can locate an attorney near you who specializes in this area of the law. We recommend that you check the list of attorneys who are board certified in health law. You can access this list by going to The Florida Bar's website: www.floridabar.org. On the menu at the left, select "Inside the Bar." Then select "Find a Lawyer." On the menu on the right side of the page, select "By Certification." Go down the certification list until you come to "Health Law." Click on "Health Law" and this will take you to a screen where you can select the whole list of health lawyers in the state. Go down that list and pick several attorneys with offices near you. You may not actually need an attorney physically located near you since most cases are handled almost entirely by mail, telephone and e-mail today.

Then call the attorneys you select and ask them questions regarding their experience in your particular type of legal problem. Make sure they have experience representing nurses.

C. PRIVATE REFERRAL SERVICES

Be careful on using private referral services. There are many and often you will find that these are not registered with the state bar association. Many private referral services are paid by the attorney or law firm based on the number of referrals they receive. You may not always be getting the best attorney from a private, commercial attorney referral service. These usually advertise on television or radio and have toll free telephone numbers to call. Most of these services target potential plaintiffs, attempting to obtain plaintiff personal injury cases for plaintiff's attorneys who pay them.

However, a very reputable service is Martindale-Hubbell. The Martindale Hubbell company publishes a series of books that contain detailed information on attorneys and law firms. It also includes the laws of each of the states in the United States and a listing of attorney ratings. These books can be found in any public library that has a law section or they can be accessed on the web. Additionally, Martindale-Hubbell also operates an online Internet service that allows you to locate an attorney by city, state and specialty. This is located at www.martindale.com.

To locate an attorney in your locale, there are several additional Internet sources that can be utilized. Among them is a site known as GetaReferral.com. This site, which meets ABA standards for lawyer referrals can be found at: www.getareferral.com.

There is also an excellent source of information at the American Bar Association website at: <http://www.abanet.org>. By following the online instructions under "Community" and "Lawyer Locator," and agreeing to the Association's rules, one can access names around the country. In addition, the Association of Trial Lawyers provides a "Find a Lawyer" function on its website at: <http://www.atla.org/>.

As in the medical profession, attorneys may also be certified in certain specialties or belong to organizations with special interests (See section 4.02 [2] [a] Qualifications for a description of the qualifications for certification, speciality organizations and the manner by which such attorneys may be identified and located.)

D. PUBLIC REFERRAL SERVICES

There are a number of county bar associations that also maintain attorney referral services. Unfortunately, we have found that most of these do not list health lawyers or lawyers who specialize in handling just nursing cases. Usually, these will not be able to help you if you have a case involving nursing issues.

II. WHAT TO CONSIDER WHEN SELECTING AN ATTORNEY

As with the selection of a healthcare provider, there are a number of factors you may want to consider in selecting your attorney. However, when selecting an attorney the following factors should be considered:

1. Qualifications and experience in handling cases like yours;
2. Fees;
3. Costs;

4. When an insurer is paying the bills;
5. Availability to do the work;
6. Attorney's accessibility to you; and
7. Personality.

A. HOW TO ASSESS THE QUALIFICATIONS OF YOUR ATTORNEY

All attorneys are not created equal. As with medical providers, there are those better suited to one task than another, such as trial practice or contract law and even within an area some are going to be more skilled or experienced.

As with obtaining the names of attorneys, a good starting point in understanding an attorney's qualifications is personal recommendation. This may come from professional associates or friends; however, a more reliable source may be an attorney you use in a different field. Most legal communities are relatively small and attorneys often know one another's reputation even when they do not practice in the same field. As a result, if you, for example, have a business attorney, he might be an excellent source to check the qualifications of a trial attorney, or vice versa. Even when they do not know attorneys in the field of your interest, their resources for information are broader than yours and will often produce excellent results.

Other than personal recommendations, you will have to engage in research. In this regard, you may want to consider the following factors:

1. Whether the attorney is a member in good standing in the Florida and county bar associations;
2. The education and experience of the attorney, especially in cases like yours;
3. Whether the attorney has been board certified in a specialty, usually health law; and
4. How the attorney is ranked by his peers.

There are a number of resources for obtaining this information. The Florida Bar can be contacted toll free at (800) 342-8011 or on the web at www.flabar.org. Under the key "organization" you can sub select "attorney search." (See the appendix for this web page and the information available.) This will provide the attorney's Bar number, whether the attorney is a member in good standing, telephone number, address, e-mail, date of admission to the Bar, whether they are certified in a specialty and any specialty sections of the Florida Bar to which they belong. You may also inquire as to whether the attorney has been disciplined by the Bar. For this information, call the Florida Bar toll free number (850) 561-5839.

Most specialty sections have no requirements other than dues. Membership does however evidence an interest and often a concentration of practice. However, section membership differs significantly from board certification. With the latter, the qualifications are fairly stringent.

There is a certification in health law in Florida. The legal specialty of health law deals with the

regulation and business aspects of medical care. As with trial law, the requirements for health law certification are stringent. The following applies for certification in the legal specialty of Health Law:

Health law is the practice of law involving Federal, State or Local law and rules or regulations regarding the delivery of health care services. In addition to health care provider issues and regulations of providers, health care includes legal issues regarding relationships between and among providers and payers.

In order to be certified in health law a lawyer must be a member in good standing with the Florida Bar. Every lawyer certified in health law has practiced law for at least 5 years. An LL.M. degree in health law can substitute for one year of practice. Each certified lawyer has had substantial involvement - 40% or more - in the practice of health care during the three years immediately preceding the application. The certified lawyer has passed peer review, a comprehensive written examination and completed 60 hours of continuing legal education in health law and passed a written examination.

This certification was first established in 1995. As of this publication, in July 2008, The Florida Bar only has 110 listed attorneys who have passed the test or been certified in the legal specialty of Health Law.

The Florida Bar has also established certifications in other areas of the law including:

1. Criminal Appellate;
2. Criminal Trial;
3. Elder Law;
4. Immigration and Nationality;
5. International Law;
6. Labor and Employment Law;
7. Marital and Family Law;
8. Real Estate Law;
9. Tax Law;
10. Wills, Trusts and Estates; and
11. Workers Compensation.

Another excellent source of information on an attorney's qualifications can be found in the publication Martindale-Hubbell. As noted previously, this publication can be found in most public libraries that contain a law section or on the web at www.martindale.com. This service rates attorneys in two areas. The first area measures legal ability and uses the following scale: C - good to high; B - high to very high and A - very high to preeminent. The second area measures general ethical standards and requires a V rating to even be considered for a rating of legal ability. As a result, a lawyer who receives an AV rating has received the highest rating available. These are peer ratings and are the opinions of members of the Bar and the judiciary. The opinions rendered are confidential such that the lawyer rated is only provided with the final rating that he has received. Law firms may also receive a rating, but these are generally the rating of the highest rated active partner in that firm.

The suggestions outlined above should assist you in refining your selection. Once that has occurred, it may be incumbent upon you to interview one or more of those attorneys. At that time, a request can be made for a detailed written resume of the attorney's education and experience. A discussion should ensue as to the attorney's experience in the particular area of interest. Most attorneys will have no difficulty with this request.

1. Question Experience and Expertise

Don't hesitate to ask questions such as: "Do you specialize in health care law? What percent of your practice is health care related? Have you done this type of deal before? Can you supply me with references?"

The world in which the nurse lives and works is foreign to most lawyers. As you are painfully aware, health care is one of the most regulated areas of business in this society. The typical general business lawyer is not equipped to handle health care matters and can get you in trouble. If you're selling a house, you need a real estate lawyer, but if you're selling your practice, you need a health care lawyer.

2. Full-Service or Small Firm?

A big health care corporation may need a big law firm, with litigators, tax lawyers, experts in securities laws, mergers and acquisitions specialists, antitrust lawyers, etc. However, most physicians and physician practice groups need a general business attorney who is trained in health care law.

A lawyer doesn't become a better lawyer by simply moving to the 20th floor. And watch out for that fashionable address, the mahogany paneling and the plush carpet, it will be reflected in your bill; somebody has to pay for it. On the other hand, if you are facing an antitrust claim by the government, you probably do need one of those litigation sub-specialists often found in the big firms.

3. Litigation vs. Transaction

Litigation and transactions require two very different sets of skills and mindsets. Litigation is war. Transactions are about collaboration. If you have a complaint against your license such as a DOH complaint or a complaint from AHCA regarding a nursing facility, you want a litigator who is experienced in health law and who is experienced in administrative hearings. Administrative litigation is very different from civil litigation or criminal litigation.

It's important to get the deal done in a way that preserves the business relationship between the parties. A good transactional lawyer is attuned to this issue. The litigator sets out to defeat the other side while the transactional attorney seeks to represent his client's interests while crafting a deal that is still acceptable to both sides.

The most expensive deals I've done have been those deals where the other side was represented by a litigator. They fight over everything. On the other hand, when a contract has been breached and the business relationship is over, consult a litigator.

4. Hire the Right Litigator

If you're contemplating litigation, hire the right litigator. Litigation always should be viewed as a business proposition, comparing the projected costs (times two) with the potential benefits. If it doesn't make good sense as an investment/business venture, it's probably going to be an expensive game for you.

Beware of the lawyer who doesn't first explore settlement, who is too eager to sue and who appears to be stoking the fires of controversy. If a lawyer feeds your anger rather than calms you down, he's going to ride your anger until you're broke. Remember, these lawyers are usually getting paid by the hour; therefore, some are motivated by the ability to increase the hours of work on the case and increase the amount of fees they generate.

5. Don't Keep Secrets

Thanks to the ambulance chasers, doctors typically view lawyers as the enemy and it may be hard to suspend your suspicions, even with the lawyer you've hired to represent you. However, if you want your lawyer to fully represent your interests, you must tell him everything there is to know about your situation.

This is particularly critical in litigation. A litigator's worst nightmare is to be blind-sided in court by some embarrassing fact that his client failed to reveal to him and for which he is, therefore, unprepared to defend.

B. HOW TO EVALUATE FEES AND COSTS

1. In General

The fees and costs attorneys charge may vary for the same project. As with qualifications, it is incumbent upon you to have a thorough understanding of how charges are calculated before making your attorney selection. Although you may be tempted to only consider costs in those circumstances where you are actually outlaying funds, it is just as important when the costs are paid by your insurance carrier. All attorneys are ethically bound to provide services in an appropriate manner. The method your insurer uses to compensate your attorney can be a determining factor in which attorneys will agree to do the work.

2. Fees

Attorneys generally bill according to one of three methods. The first of these is hourly and depends entirely on the number of hours worked and the rate per hour. The second is capitated. This is a negotiated rate for the entire project regardless of the time required. The third is contingency. This is based on a percentage of the recovery and for the most part is used in personal injury actions.

Remember that when you first meet the attorney, you are engaged in an interview that works both ways. You are determining whether this is the individual that you want on your case and he is determining whether he has the ability to provide you the service required and whether he wants to be involved in your case. It is at this initial meeting that the issue of fees should be discussed. Once you have had the opportunity to explain your case, he should be in a position to discuss which form the compensation will take, i.e., hourly or capitated. You will generally find in your discussions with attorneys that their hourly rate is dependent on their experience, their desire to do the work and the complexity of the work. Generally, the more experienced an attorney, the higher the rate while the greater his desire and/or need for the work, the lower the rate. It is not unusual to find rates in most parts of Florida that vary between \$180.00 and \$450.00 per hour, although lower or higher rates may be encountered. Interviews with several attorneys should give you a fair idea of the market rate. As pointed out in prior sections, this may also be discussed with attorneys in other fields with whom you have interaction who can investigate the market rate for you.

Although, the complexity of the work may also affect the hourly rate, the ultimate cost may be more dependent on the attorney's skill. A highly skilled or experienced attorney may be able to do the project more quickly. On the other hand, a less experienced attorney who needs the work may be very enthusiastic about your project and provide the personal attention that you desire.

It is also important that you have an understanding as to which attorney will be doing the work. It is not uncommon for projects to be accepted in a law firm by a more senior attorney who then utilizes his associates to assist in accomplishing the task. In most instances this works quite well as long as the senior attorney oversees the work and is present at all major events. If a portion of the work is to be performed by less experienced attorneys, you can expect an adjustment in the hourly rate for that portion. Generally, associates work at a reduced rate, which may be to your advantage. Similarly, paralegals may perform some of the work required which is more routine and often work at rates significantly below those of associate attorneys. Although it is quite variable, it is not unusual to find a paralegal billed at

approximately one half of an associates billing rate.

A final consideration in setting hourly rates is the volume of work. If you have recurring legal requirements many attorneys will negotiate a reduced rate.

The hourly rate is not the only parameter in determining the expected fee. The attorney who is being considered should also be able to give you some idea of the time that will be required. This may vary as the project progresses, but an experienced attorney should be able to give you approximations. As you can see, a low hourly rate may not be as attractive at the completion of the project if it took considerably more time to produce the result required.

Attorneys who work on an hourly basis are used to completing detailed time sheets. Although these may vary to some extent, it is not unusual to find attorneys keeping track of time intervals as short as 1/10 of an hour (6 minutes). Each time notation should be accompanied by a description of the work performed. If you are paying the bill, you should be receiving a detailed statement at regular intervals. Even if you are not paying the bill it can be a source of information for you. The bill may be reviewed to ensure that the attorney performing the work is doing so within the parameters that you expected. The billing sheet can also serve as a quick review of the progress being made on your project. In the event that you are concerned about entries on the billing statement, you should bring these to the attention of the attorney as quickly as possible. He should have no difficulty setting a meeting with you and reviewing the statement in as much detail as you require. Although the attorney's office may be geared towards producing these statements on a particular interval such as monthly, you do have the right to ask for a billing statement at any point you wish. In most instances the attorneys' billings are computer generated and can be pulled up on short notice.

There are some attorneys that will perform a particular task on a capitated or per project basis. The more complex the project the less likely it is for the attorney to accept work on this basis as he is less able to predict occurrences during the project. This is particularly true of projects that involve litigation, which can at times be solved in short time frames, or alternatively result in multiple court proceedings and even appeals. This may also be true of regulatory issues that involve licensure, discipline and credentialing. As with litigation, these can become lengthy and complicated matters. On the other hand, relatively less complex business matters, such as the creation of a corporation are more easily defined and susceptible to a per project basis.

3. Costs

Attorneys distinguish between fees and costs and bill separately for them. As noted, fees reflect the attorney's rate multiplied by time or a fixed amount per project. Costs on the other hand reflect materials and services other than fees.

As is evident, the costs of a project can significantly affect the ultimate outlay of funds. As with fees, this should be discussed at the initial interview with the attorney. Costs are comparable and may impact your decision as to which attorney to utilize.

There are three considerations when evaluating costs. The first of these is which costs are charged

to you. The second is whether there is an add on or surcharge on these costs and the third is the frequency at which these costs are passed through to you.

Most firms bill for the same cost items. Among these are long distance calls, faxes, postage, messenger services, mileage, travel expenses and contracted independent professional services. You may also find a charge for interest if the costs are significant and/or are carried for a lengthy period by the attorney. Although the items charged are generally similar between attorneys, the amounts may vary. This is ripe for comparison. For example, travel expenses will vary widely. This depends in large part on whether the attorney travels alone for a project or requires assistants, whether he or she travels first class or by coach, the caliber of hotel where he or she stays and the per diem per day for food. An interesting side note in this regard is that teleconferencing for meetings, depositions and court hearings are now available. This can sharply reduce travel expenses. You may want to discuss this with your attorney to determine whether any aspect of your project is amenable to this format.

When discussing the amount of each charge, you may also want to ask the attorney whether the cost is being billed at the amount expended by the lawyer or whether there is a surcharge for that cost. For example, while mileage is often charged at or near the rate allowed by the IRS, other charges such as long distance calls, faxes and mailing services may include a surcharge. This is not inappropriate but for comparison purposes you should understand the charges.

Finally, you should inquire about independently contracted professional services. Many of these such as process servers and court reporters are relatively fixed. Others, however, may vary significantly. Examples include investigation services and medical reviews performed by physicians and/or nursing services.

The final consideration with regard to cost is on what periodic basis the costs are passed through to you. As noted, costs are generally borne by the client. However, the time they are carried by the attorney may vary. It is obviously to the attorney's advantage to pass through costs immediately. If he does that, you may be able to negotiate savings with him as a result of his not having to carry costs on his books for a prolonged time.

C. INSIST ON DETAILED BILLING

Most law firms bill on a monthly basis. This is the way it should be because it enables you to track the course of your litigation or transaction and keep a handle on the costs. Many law firms provide billing statements that only summarize or describe in general terms the work performed by the firm. In my opinion, this is not sufficient.

Insist on a detailed bill of all activity for the month. In a detailed bill, the typical entry would read, for example, "Telephone call to Dr. Smith regarding noncompetition provision - .2" This tells you who was called, what was discussed, and the amount of time that was spent on the call (2/10 of an hour or 12 minutes). Finally, if you have a question regarding the bill, don't hesitate to ask for an explanation.

D. WHEN AN INSURER IS PAYING THE BILL

Although there is a tendency to ignore attorney reimbursement when the insurer is paying, this information can be valuable to you in understanding the representation that you are receiving. In most instances, as noted previously, insurers have a panel of attorneys in each geographical area who are well experienced and have produced admirable results. Because the insurer provides these counsels with a volume of business, they are often able to obtain a price break unavailable to an individual client. If an hourly rate is used for your case, the actual rate paid should not be overly concerning. As noted, it generally reflects the volume of business. The only caveat in this regard is that a large volume of work requires that it be spread over a number of attorneys. For this reason, you should insure that you know and are comfortable with the attorney actually doing the work in your case.

Capitation, on the other hand, may be of more concern. Although there are many formats for capitation, it generally takes the form of either a set number of dollars per time period regardless of the number of cases handled, or alternatively, a set number of dollars per case regardless of the complexity or requirements of the case. Such reimbursement systems are not foreign to healthcare providers. However, many who have worked under such systems have developed concerns. If you've had such concerns in your business and believe they may also apply to the legal services you receive, be sure that you discuss this with your counsel and/or carrier.

A final note on attorney compensation pertains to the type of policy that you have purchased. There are policies that diminish the liability payment available under the policy as the legal expenses amount. For example, if you buy a \$250,000 liability policy for professional negligence, but have incurred \$100,000 in legal fees, then there would only be \$150,000 left to pay any settlement or judgment. If you have decided to purchase such a policy, you should understand that you may be liable for any portion of a settlement or verdict above the insurer's liability payout. As a result, you should closely monitor the work done under such policies to ensure that the litigation is progressing in a manner that you believe is in your best interest. You should additionally ask to be kept apprised of the amount that remains available for settlement and/or a verdict.

E. IS THE ATTORNEY AVAILABLE TO DO THE WORK

Although there is no way to know with any certainty the amount of time an attorney has available to do your work, there are certain precautions you can take. The first and most direct is to simply ask him. If he is a trial attorney, ask him what his trial calendar is like for the period of time that you anticipate your project will last. Generally, a trial attorney will be quite involved with trial for a period of time before that trial and during the trial. In that interim it is difficult for him to devote significant time to other matters. This should not however be disconcerting unless his calendar is too crowded. When it is time for your case to be resolved, you can anticipate that he will devote the same amount of time to you. Alternatively, as a senior partner, he may handle the more significant portions of each case. In either event it is necessary for you to understand who will be doing what parts of your case when the senior attorney is unavailable and their qualifications.

Additionally, it is generally a good sign if the attorney has received high ratings from a private referral service such as Martindale-Hubbell and is in good standing with the Florida Bar. Attorneys who do not perform satisfactorily may be the subject of grievances with the Bar. In those circumstances where this has resulted in disciplinary action, that information is available to you. You may access it by calling

the Florida Bar at (850) 561-5839.

F. IS THE ATTORNEY AVAILABLE TO YOU

As with availability to do the work, an attorney's availability to you is also important. At the outset we noted that it is common for individuals who are not used to the legal system to be uneasy about being involved with the law. The more available your attorney is to you, the more likely it is that you will understand the progress of your case and feel a sense of ease. There will, of course, be times when your attorney cannot be available. However, you should expect him to have a system in place whereby an associate, paralegal or secretary will call you back to answer any questions that you have while he is unavailable.

Although there is no set time within which an attorney must be available to respond to your questions, if you are experiencing a pattern of delayed responses you should bring that to the attorney's attention.

The number one complaint about lawyers is that they don't return their phone calls. Make it clear to your lawyer from the beginning that you expect your calls to be returned within the same half-day, that is within four hours.

At the end of the conversation, agree on the next step to be taken by the lawyer and get a commitment on a deadline for completion of that task. Follow-up on deadlines and let the lawyer know that timeliness is important to you. Demonstrate your commitment to timeliness by paying your legal fees in a timely fashion; this step will breed loyalty in your lawyer.

G. DOES THE ATTORNEY'S PERSONALITY MAKE A DIFFERENCE

What are you looking for? A bulldog, a consensus builder, a combination of the two or some other personality trait? Just as a doctor's bedside manner goes a long way towards establishing the relationship between himself and his patient and at times affect the outcome, so will the personality trait of the attorney you select. There is no one trait that is particularly attuned to any one type of work. Although you may assume that all litigation requires a bulldog in the courtroom, that is not necessarily the case. There are types of cases that are better handled by those whose personality although quieter is nonetheless persuasive. Similarly, where a negotiated settlement is the desired outcome, a consensus builder may be the best individual for the case. You may want to discuss this with attorneys who provide you other services. Additionally, many attorneys utilize focus groups or mock jury trials before taking complex cases to trial. These focus groups not only delve into the case issues, but also give the attorneys some insight as to the approach that might be best suited to that case. Although it is unlikely that you would go to that extent in choosing an attorney, it is sometimes helpful to discuss the matter with nonprofessionals. Your spouse or friends may have an interesting insight into this question. Remember, if its litigation, jury pools in Florida are drawn from voter registration polls.

Finally, in considering personality, you need to ensure that you're comfortable with the person with

whom you'll be working. Although you might be tempted to feel that it doesn't matter as long as he gets the job done, that thinking could be counter-productive. You have to develop a working relationship with your attorney, as any legal project is a collaboration between you and him.

III. QUESTIONS TO ASK A LAWYER (BEFORE HIRING HER)

The following questions should be asked to a lawyer you are considering. These will assist you in deciding which lawyer to retain. These questions could be asked over the telephone or in an initial interview:

1. How long have you been practicing in this area of law?
2. Are you board certified by the bar in any legal specialties? If so, which ones?
3. Do you have any other advanced degrees?
4. How many cases like mine have you handled before?
5. When was the last time you handled a case like this one?
6. What is your experience in representing nurses?
7. How many other nurses have you represented?
8. How many times have you appeared before the Board of Nursing?
9. How many administrative hearings have you had?
10. Do you litigate cases yourself, or do you refer litigation case to another attorney?
11. How many attorneys are in your firm? Who will handle my case if you are sick, on vacation, in an accident, away at a seminar, or become unable to practice law?
12. What are the possible results of my matter?
13. How long will it take to complete my matter?
14. What alternatives exist for resolving my matter?
15. What are your rates or fees and how are they calculated?
16. How often will I be billed?
17. What is your method of billing? If on an hourly basis, do you bill in on tenth of an hour increments (preferred) or quarter hour increments?

18. What is an estimate for the total cost of my matter, including fees and expenses?
19. Do you offer discounts to members of any groups, associations or insurance companies?
20. Can law clerks or paralegals assist with my matter to keep costs down?
21. How will your office let me know what is happening with my matter?
22. How can I get in touch with you if I need to?
23. Will you encourage settlement or take an aggressive approach to resolve issues?
24. Who else in the office will work on my matter?
25. What information, documents or work can I provide to assist in resolving my matter?