Paralegal Professional 5th edition Goldman Solutions Manual

SKU: 9780134130842-SOLUTIONS

CHAPTER 2 – Ethics and Professional Responsibility

Teacher to Teacher Notes

This chapter will discuss these ideas: what is legal and ethical, within the confines of the legal profession. The laws and the rules which define the conduct of the lawyer and the paralegal; how they interact as a team delivering legal services, their obligations to each other, their clients and the court. The moral decisions, that is, how the student individually decides to abide by the legal and ethical requirements are up to him or her.

Pre-Chapter Warm-up

What's Legal, Ethical and Moral? – Use an example students can relate to

1. Legal – the speed limit
   **Usually defined by statute or case law
2. Ethical – an unwritten understanding with the state police – no traffic stops, moving violation so long as don't exceed the speed limit by 10 mph
   **Usually an agreement among members of a particular group that defines how they will conduct themselves
3. Moral – what you decide to do - 55mph or 64mph.
   ** Your own sense of right and wrong

Learning Objectives

1. Explain how the practice of law is regulated.
2. Define and ethics and explain the difference between the attorney's rules of ethics and the paralegal's rules of ethics
3. Explain the lawyer's ethical duty to supervise.
4. Discuss the ethical obligation of competence.
5. Explain the concept of confidentiality of client communications and the attorney-client privilege.
6. Discuss the concept of conflict of interest in the legal profession
7. Describe the duty of candor to the court and other counsel and the ethical duty of fairness
8. Analyze a situation to determine if it involves the unauthorized practice of law.

Paralegals at Work

As your class discussion shifts from the broad discussion in the Pre Chapter Warm-up of what is legal, ethical and moral, ask the students about Kelsey's professional situation and her behavior.

11. What's wrong?
   Answer: Working for both sides, giving advice, contacting the clients or carrier directly, discussing with a colleague

12. What's right?
   Answer: Seeking advice although maybe from the wrong person

3. What makes you uncomfortable?
   Answer: Often those things that make us feel uncomfortable are ethics violations

Introduction to Ethics and Professional Responsibility

•Every profession develops a set of guidelines for those in the profession to follow.

Paralegal Professional 5th edition Goldman Solutions Manual

•For lawyers, ethical conduct is proscribed by the ABA Model Rules of Professional Conduct, which most states have adopted.
•Ethical guidelines provide a high degree of consistency for the legal profession across the country.
•For paralegals membership in one of the national paralegal associations, such as NALA (National Association of Legal Assistants) or NFPA (National Federation of Paralegal Associations) require the paralegal to conduct him/herself in accordance with these guidelines.
•These codes typically set for the minimum in ethical behavior

Chapter Outline
I.Regulation of the Practice of Law
Learning Objective 1 – explain how the practice of law is regulated

A. The practice of law is regulated by state government and court rule in an attempt to protect the public from incompetent and unscrupulous practitioners
1. License requirements from state statutory provisions – typically education, character and examination requirements
2. Requirements to maintain license (continuing legal education)
3. Code of Professional Conduct adopted by state
   a. Penalty for violation can be a fine, suspension for a period of time or disbarment.
   b. Where the violation also represents a crime (e.g. unauthorized practice of law) in the state the penalty may include additional fines and imprisonment

A. The Paralegal and Licensing
1. No state licensing requirements
   a. Some states have statutes that carve out areas that paralegals may act
2. No unified code of ethics
3. Privately monitored within professional associations
4. Fine line between lawful activity of the paralegal and the unauthorized practice of law

II. Ethical Duties and Obligations
• Competency
• Confidentiality
• Conflicts of Interest
• Candor
• Fairness to Opposing Party and Counsel
• Duty to supervise
1
2III. Ethical Guidelines and Rules
Learning Objective 2 - Define and ethics and explain the difference between the attorney's rules of ethics and the paralegal's rules of ethics
lLawyers – single set of rules adopted by the state in which they practice usually based upon the American Bar Association's Model Code of Professional Responsibility
lParalegal – no single source of ethical rules. Paralegals must conduct themselves in accordance with the rules applicable to attorneys. Thus, since the rules that govern the attorney will also

Paralegal Professional 5th edition Goldman Solutions Manual

govern the paralegal's conduct it is important for the paralegal to know her state's Rules of Professional Conduct.

A. ABA Model Guidelines for Utilization of Paralegal Services
   1. Not mandatory that these guidelines be followed
   2. Guidelines suggest how attorneys interact with, train, supervise, delegate and compensate paralegals
   3. A paralegal is the agent of the attorney and owes the common law duties of agent to principal also known as the fiduciary duty
      a. Exercise reasonable care, skill and diligence
      b. Duty of loyalty – all benefits must be for the employer/principal not self
   4. The principal/agent rule is extended to the client – the attorney is the agent of the client so the paralegal is a sub-agent to the client and owes all the same duties to the client

B. Uniformity of Paralegal Ethics
   1. No unified code of ethics governs paralegals
   2. Professional associations have attempted to fill the gap but each has its own code of ethics

C. Ethics Codes of Paralegal Associations
   1. NFPA – Paralegal association and individual paralegals rules and guidelines
      a. Consequence for breach – loss of membership in association
      b. Note similarity to ABA Code
   2. NALA – association for legal assistants which provides for continuing education and certification testing, CLA is a designation recognized by the ABA
      a. Consequence for breach – loss of certification and membership in association
      b. Note similarity to ABA Code

D.Duty to Supervise

DI.**Learning Objective 3 - Explain the lawyer's ethical duty to supervise.**
   1. Partners, lawyers with managerial authority in the firm have a duty to ensure others conduct complies with the ethical code
   2. Ethical breaches are the responsibility of the supervising attorney under both the legal principals of the law of agency and the ethical code

E. Sanctions
   1. Sanctions for failure to properly supervise can come from the court (damages for malpractice or breach of contract) and from the attorney disciplinary board (suspension of license or disbarment)
   2. Each person working for or supervised by the attorney is in fact the agent of the attorney.
   3. Under fundamentals of agency law, the agent and the principal—the attorney—have a fiduciary relationship to each other. The agent must obey the reasonable instructions of the principal and the principal is presumed to know everything the agent learns in the ordinary course of working for the attorney on the case.

a. Fiduciary obligations include the duty to exercise reasonable care, skill and diligence and the duty of loyalty

HYPOS:

Supervision by Attorney

You type a document for the supervising attorney and suspect that she is not reviewing your work as suggested by the Guidelines and in many states required by the Code of Professional Responsibility. How to make sure??? Include a simple mistake or typo that is not fatal to the document and see if it is corrected.

The attorney meets the client at the initial client meeting. All contact after that is with the paralegal. The next personal contact of any type between the attorney and the client is on the court house steps the morning of the hearing. This may violate the obligation of the attorney to maintain a direct relationship with the client and to supervise the paralegal

F. Competence

Learning Objective 4 - Discuss the ethical obligation of competence.

1. ABA Rule 1.1 – a lawyer must provide competent representation to a client
2. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation
3. Understanding an area of law and the rules of court
4. Effectively communicating with the client and non-legal members of the legal team

V.The Duty of Confidentiality, Attorney-Client Privilege and Work Product Doctrine

Learning Objective 5 - Explain the concept of confidentiality of client communications and the attorney-client privilege.

•confidentiality is an ethical obligation

•attorney-client privilege and work product doctrine are rules of evidence

•combined they represent the legal profession's obligation to protect the client's communications to the legal team so that the client can provide all the information necessary for the legal team to conduct an effective representation of the client

A. Confidentiality

1. ABA Model Rules provide in Rule 1.6, Confidentiality of Information, that a lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized.
2. Ethical duty imposed on each member of the legal team, including attorneys, paralegals, staff and those who may be engaged to provide services such as investigators and forensic experts
3. Founded on belief that client should be able to tell her attorneys everything about her case so the attorney can give proper legal advice
4. Confidential information is "all information, regardless of the source, gained in the representation of the client."

Paralegal Professional 5th edition Goldman Solutions Manual

5. Even information that may be published in the newspaper is confidential for the lawyer and paralegal working for the client and may not be discussed with others.

HYPOS:
A divorce client is emotionally overwrought and wants a friend to sit in the on the meeting with the attorney for moral support. Will the information remain confidential?
Answer: No, the presence of a third party breaches the confidential nature of the communications.

Attorney and paralegal are discussing a client's situation in the reception area and a letter carrier comes in with the morning mail. Will the information remain confidential?
No, the presence of a third party breaches the confidential nature of the communications.

You are at a restaurant with friend and talking about your new job as a paralegal. Without disclosing the client's name you tell the gruesome facts of a nasty divorce. Will the information remain confidential?
Answer: No, the communication of the information to a third party breaches the confidential nature of the communications.

Client asks that all communication be via e-mail. A settlement offer has bee received from opposing counsel and a response prepared today. The client says just send it to my work e-mail address? Will the information remain confidential if sent to a work e-mail address?
Answer: Possibly not, most employers have the right to examine e-mail of their employees thus the e-mail from the attorney will not be confidential.

B. Attorney-Client Privilege
   1. Rule of evidence that protects the clients from the attorney being required to reveal the client's confidential information.
   2. The privilege applies only if the attorney is under oath
   3. Only the client may waive the privilege
   4. If the client has revealed the same information to someone outside of the attorney or legal team, the privilege is lost.
   5. The concept of privilege extends to other relationships the student may be familiar with
      • Spouse, clergy-penitent, physician-patient, psychotherapist-patient, participant in settlement negotiations

C. Claim of Privilege
   1. The attorney-client privilege is not automatically invoked
   2. The privilege must be asserted and its existence established by the client
   3. Extension of Attorney-client privilege to others is required for the efficient administration of justice (lawyers must engage others, such as legal assistants, accountants, and other experts. This would not be possible if the privilege did not extend to these agents of the attorney).
   4. Common interest privilege - permits a client to share confidential

information with the attorney for another who shares a common legal interest, such as the attorney for a co-defendant who has separate counsel.

D. Work Product Doctrine

•a rule of evidence that allows the attorney to treat as confidential, and not make available, her work product

•limited protection for material prepared by the attorney, or those working for the attorney, in anticipation of litigation or for trial

•confidentiality and privilege apply to relevant client communications regardless of whether they involve potential litigation

1. Exceptions and limitation to the work product doctrine
   a. Does not protect documents prepared in the client's normal course of business
   b. Client does not protect its documents simply by giving them to the attorney
2. Exception to the third party document exception
   a. "Where a request is made for documents already in the possession of requesting party, with precise goal of warning what the opposing attorney's thinking or strategy may be, even third-party documents may be protected."

E. Government Attorney Exception

1 attorney–client privilege does not extend to government attorneys
2. A government attorney should have no privilege to shield relevant information from the public citizens to whom she owes ultimate allegiance

F. Inadvertent Disclosure of Confidential Information

•the slip of a finger, a misdialed fax number, a reply to all can result in unintentional disclosure of confidential information

•admissibility of the inadvertently disclosed documents may hinge on the steps taken before and after the disclosure

•admissibility may also depend on your particular jurisdictions treatment of the issue

1. Judicial Views
   a. Automatic waiver – once the confidentiality is breached the privilege is automatically waiver; the documents may be used by the party who received them inadvertently
   b. No waiver – the privilege is destroyed only when a client makes a knowing voluntary waiver of the privilege; inadvertent disclosure does not constitute a knowing voluntary waiver
   c. Balancing test – the courts looks at a number of factors:
      i. the nature of the methods taken to protect the information
      ii. the efforts made to correct the inadvertent disclosure
      iii. the extent of the disclosure
      iv. fairness

      and may impose a variety of remedies such as unlimited use of the disclosed information, return of the documents, disqualification of the attorney who has seen the material
2. ABA Ethics Opinion

•a lawyer who received information from opposing counsel and knows or reasonably should know that the document was inadvertently sent should promptly notify the sender in order to

permit the sender to take protective action

V.Conflict of Interest

Learning Objective 6 - Discuss the concept of conflict of interest in the legal profession

1. Representing one client that will be directly adverse to the interest of another client, the attorney, or anther third party not the client
2. The basis of the rule is that a person cannot be loyal to two clients with adverse or opposing interest
3. ABA Rule 1.7 – a lawyer should not represent another client if the representation of one will be directly adverse to the other unless both clients give informed consent to dual representation and that consent is confirmed in writing
4. Relates to all former, current and future clients
5. In certain circumstances the conflict may be waived. Both clients must receive notice of the conflict; understand the nature of the conflict and the impact of waiving the conflict.
6. Law firms and paralegals must carefully check for potential conflicts of interest before accepting representation of new clients or new matters on behalf of existing clients

7.Doing work for family and friends may present a conflict of interest or an appearance of impropriety and make life difficult when the family member or friend is not happy with their representation or the out come of their case.

HYPOS:

Lawyer represents a husband and wife for the purchase of a house and to prepare wills. Now they are getting divorced and the husband wants the attorney to represent him.
Can the lawyer represent him?
Answer: No, unless both parties are notified of the conflict of interest and agree that it is okay for the attorney to represent him.

Several years ago the firm represented a company in developing its employee handbook and an employment contract which included a covenant not to compete. A potential new client who is a former employee of the company asks our firm to represent him in action against the company. May the firm accept this new representation?
Answer: No, unless both parties are notified of the conflict of interest and agree that it is okay for the attorney to represent him.

Can a paralegal have a physical relationship with the client? Why or why not? Maybe. The issue here will be whether the relationship will negatively impact the individual client with whom the paralegal has the relationship or other clients. Is there the chance of giving favorable treatment to one over the others? Or if things turn sour in the relationship will the client be treated unfairly?
Answer: While there is no specific prohibition in the ethics code there is the prohibition against situations where an appearance of impropriety exists.

VI. Candor and Fairness in Litigation

VII.**Learning Objective 7 - Describe the duty of candor to the court and other counsel and the ethical duty of fairness**

•Duty of the advocate to avoid any conduct that undermines the integrity of the process.

•Duty to the client to persuasively present the case is a qualified duty, qualified by the ethical obligation (candor) to not mislead the court or opposing counsel with false statements of law or of facts which the lawyer knows to be false.

•Ethical duty to competently research and present the current case and statutory law, even when the most current version is not favorable to your client

A. Fairness to Opposing Party and Counsel
   1. Guideline to ensure justice is done even if one's client loses the case
   2. Each attorney is to use best skills and knowledge to present fairly their position to the trier of fact
   3. Destroying, falsifying or tampering with evidence destroys and/or undermines the legal system and the faith people have in the system

B. Penalties for the Unauthorized Practice of Law
   1. In many states unauthorized practice of law is a crime, usually a misdemeanor
   2. Concern that the general public will misinterpret the title of paralegal or legal assistant as denoting a person admitted to practice law
   3. A state similarly may define what constitutes the practice of law

II. Avoiding UPL: Holding Oneself Out

Learning Objective 8 - Analyze a situation to determine if it involves the unauthorized practice of law.

A. Because the paralegal is often the first point of contact for clients, witnesses, opposing counsel and the court confusion frequently occurs
B. Paralegal must identify him/herself, advising all they encounter they are **not** lawyers (orally, business cards, stationery)
C. Paralegal must educate those they encounter as to what a paralegal can and cannot do.
D. Avoiding UPL: Giving Advice
   1. Cannot give legal opinion or advice
   2. Giving advice is the unauthorized practice of law where the advice given will impact legal rights (how should I sign my name)
E. Avoiding UPL: Filling our Forms
   1. Selling forms in not UPL
   2. Completing forms at client direction in not UPL
   3. Making changes or corrections maybe UPL
   4. Any completion of forms, where something more than rote recitation of factual information is required, may represent UPL
F. Avoiding UPL: Representing Clients

1. Limited instances when it is permissible to represent a client before a court or administrative agency.
2. Social Security and US Patent Office specifically permit non-lawyers to appear on behalf of others
3. Unless specific statutory or court authorization appearing in court will be UPL

G. Avoiding UPL: Guidelines (NALA)
1. Legal assistants should disclose their status as legal assistants
2. Legal assistants should not establish attorney-client relationships; set legal fees; give legal opinions or advice; or represent a client before a court, unless authorized to do so by said court; nor engage in, encourage, or contribute to any act which could constitute the unauthorized practice law.
3. Legal assistants may perform services for an attorney if
   a. the services performed by the legal assistant do not require the exercise of independent professional legal judgment;
   b. the attorney maintains a direct relationship with the client and maintains control of all client matters;
   c. the attorney supervises the legal assistant;
   d. the attorney remains professionally responsible for all work on behalf of the client, including any actions taken or not taken by the legal assistant in connection therewith; and
   e. the services performed supplement, merge with and become the attorney's work product.

HYPOS:
The client calls and says don't bother the lawyer, it only costs me money. Just make out the Power of Attorney for my mom; after all it's only a form.
Answer: It's not "just a form". Consultation with an attorney would be required to determine what things mom wants her power of attorney to cover, financial matters, health care decisions, admission to nursing home, etc.

The client, who has been with the firm for a long time, calls and is greatly distressed. She is very upset about her ex-husband and his obligations to pay child support. She has just received a mortgage foreclosure notice. She also knows that a support hearing is scheduled for tomorrow. She wants to know how much she will get from her husband. You have done all the research and know the answer.
Answer: An appropriate discussion here would include our natural desire to help and calm down someone in distress, the relationship with the client (long term) and keeping client's happy generally

Critical Thinking and Writing Questions
1. What is the general theory for regulating the practice of law? How is this applied?

ANSWER: The practice of law is regulated to protect the public from incompetent and unscrupulous practitioners. This theory is applied through statutes for (1) licensing, which

Paralegal Professional 5th edition Goldman Solutions Manual

determine minimum qualifications for those who practice law and (2) punishing the unauthorized practice of law.

2. Why is "just giving advice" potentially the unauthorized practice of law?

ANSWER: When advice is given that impacts the legal rights and obligations of a client it is the unauthorized practice of law. However innocent the intention or simple the question, where the answer has the potential to affect rights and duties it will be the unauthorized practice of law.

3. How would regulation of the paralegal profession assure the public of quality legal services?

ANSWER: Like regulation of lawyers and other professions, regulation of the paralegal professional would set minimum standards that all within the profession must achieve. Further, regulation would protect the public from incompetent and unscrupulous providers of legal services. However, regulation may add a layer of unnecessary governmental regulation in an area where paralegals are indirectly governed through the regulation of their supervising attorney.

4. When may non-lawyers represent clients?

ANSWER: Non-lawyers may represent clients where specific statutory authorization exists. For example, statutes permit non-lawyers to represent clients in Social Security Disability claims.

5. How can the paralegal avoid UPL?

ANSWER: A paralegal may do a number of things to avoid UPL. First, know what behaviors represent UPL (filling out forms, setting fees, appearing in court, giving advice). Second, have an awareness of the types of situations where UPL may arise (keeping clients happy by answering their questions, filling out forms). Third, always identify yourself as a paralegal and educate the client as to what you can and cannot do. Fourth, always defer to the supervising attorney and follow through with the promised call back from either the attorney or you to keep the client informed and happy.

6. How do the unauthorized practice of law statutes protect the public?

ANSWER: These statutes generally make the unauthorized practice of law a crime punishable with fines and/or imprisonment. These statutes serve to protect the public from incompetent providers of legal services.

7. Why should the paralegal be familiar with the ABA Model Rules of Professional Conduct?

ANSWER: Paralegals should be familiar with the ABA Model Rules because most states use them as a guide for the adoption of their rules of professional responsibility governing the conduct of attorneys and the paralegals they supervise.

8. How do the ABA Model Guidelines for the Utilization of Legal Assistant Services define the role of the paralegal in the law office?

ANSWER: These non-mandatory guidelines suggest how attorneys should interact with, train, supervise and compensate paralegals. An attorney may delegate to a paralegal any substantive legal task that is normally performed by an attorney and that is not specifically forbidden by statute, court rule, or the ABA model rules, so long as the paralegal is properly supervised.

9. Does a paralegal's violations of the ethics rules of the national paralegal associations have the same impact as the violation of ethical rules of attorneys on the right to practice?

ANSWER: No. The ethics rules applicable to attorneys have the force of law behind them and may result in disciplinary proceedings and sanctions. Sanctions range from an informal reprimand of the attorney to disbarment, ending the attorney's career. The ethics rules of the national paralegal associations do not have the force of law behind them but demand the voluntary compliance of their members. Violation may result in removal from the membership rolls or loss of professional designation, neither of these have the impact to end one's career. Realistically, unethical behavior of the paralegal that affects the supervising attorney's license can result in his reprimand and the paralegal's continued employment.

10. Would a paralegal dating a client have a conflict of interest? How could such a relationship create compromising influences and loyalties?

ANSWER: While there is no specific prohibition against a paralegal having a personal relationship with a client, such a relationship can negatively affect independent professional judgment. By way of example, the client dating the paralegal may receive more favorably treatment than others. And should the relationship turn sour, the same client may receive less favorable treatment. This violates the duty of loyalty.

11. What are the reasons for protecting privileged communications?

ANSWER: Certain types of communication have been classified as privileged or protected from disclosure to encourage the free exchange of information between the speakers. We want to encourage clients to disclose all information to attorneys, no matter how embarrassing, so the attorney may properly evaluate the situation and give the best advice. If clients fear that unfavorable information will be communicated to others, that their reputations will be affected, they will be less inclined to reveal the good and the bad about their situation.

12. Under what circumstances might a paralegal have a conflict of interest in taking a new job at a different law firm?

ANSWER: The paralegal may have personal knowledge (from prior employment or personal experiences) of individuals whose interests are directly adverse to the new law firm's clients.

13. What are the potential dangers in paralegals moonlighting?

Paralegal Professional 5th edition Goldman Solutions Manual

ANSWER: One ethical concern for the paralegal who moonlights is proper attorney supervision. Another is the potential for conflict of interest to arise, particularly if the paralegal has no mechanism in place to check for conflicts.

14. What is a conflict of interest under the Model Rules of Professional Conduct?

ANSWER: Under Model Rule 1.7 a lawyer shall not represent a client if the representation of that client that will be directly adverse to another client, unless the lawyer reasonably believes the representation will not adversely affect the relationship with the other client and each client consents after consultation.

15. Does a client have an attorney-client privilege regarding information given to a paralegal during the preparation of a case?

ANSWER: Yes. The work product doctrine extends the attorney-client privilege to materials prepared by an attorney or his agents (the paralegal) in anticipation of the litigation or the trial itself.

16. What duty does a paralegal owe to the supervising attorney?

ANSWER: Under the ABA Model Guidelines for the Utilization of Paralegal Services, the paralegal is the agent of the attorney and owes the common law duties of agent to principal also known as the fiduciary duty. This includes the duty to exercise reasonable care, skill and diligence and the duty of loyalty.

17. How is a paralegal the agent of the client?

ANSWER: The attorney is the agent of the client. The paralegal, as agent of the attorney, is also the sub-agent of the client. The paralegal performs substantive legal functions assigned to her by the attorney. When performing these tasks, the paralegal directly benefits her principal/employer, the supervising attorney and the client.

18. In a possible conflict of interest, with whom does the ultimate decision rest?

ANSWER: The initial evaluation should be made by the attorney. However, under Rule 1.7 of the ABA Model Rules of Professional Conduct, the ultimate decision may lie with the client. Under the rule, the attorney who faces a conflict of interest, but reasonably believes the representation will not adversely affect the relationship with the other client may go forward with the representation. The lawyer must advise both clients of the existence and significance of the conflict. If each client consents the conflict of interest is waived and the attorney may continue to representation both clients.

19. Under what circumstances must a lawyer or paralegal refuse employment?

ANSWER: A lawyer or paralegal must refuse employment if there is a conflict with the paralegal's or lawyer's own interest. Where the personal interests of the lawyer or paralegal would conflict to the extent that his/her independent judgment is affected, representation must be refused. Representation should also be refused where the matter is outside the scope of the knowledge, training and experience of the lawyer and paralegal.

20. What is required to invoke the attorney-client privilege?

ANSWER: Either the attorney or the client may affirmatively raise the privilege claiming the information sought is protected as it represents confidential attorney-client communications.

21. What is covered under the "work product doctrine"?

ANSWER: The "work product doctrine" includes written materials prepared by attorneys in representation of a client usually in anticipation of trial. It also includes communication with non-lawyers (paralegals, secretaries) who assist the attorney in the representation of the client.

22. What is the duty of the trier of fact?

ANSWER: The trier of fact decides what facts are to be accepted and used in making the decision. It is usually a jury, but may be a judge who hears a case without a jury and decides the facts and applies the law in rendering a decision to a legal dispute.

23. What is exculpatory evidence?

ANSWER: Evidence which tends to prove the innocence of the accused or prove the facts of the defendant's case

24. What is the purpose of ethics?

ANSWER: To have a set of guidelines that establish standards of professional behaviors; public protection is the ultimate goal.

25. What is the purpose of the confidentiality rule in the legal setting?

ANSWER: To enable clients to speak freely and openly and give the remembers of the legal team all the relevant facts without the fear of disclosure of these facts.

26. What is the difference between the duty of confidentiality and the attorney-client privilege?

ANSWER: Confidentiality is an ethical obligation; information from clients cannot be revealed. Privilege is a rule of evidence-allows attorneys to keep from being forced to reveal information while under oath.

27. Can the confidentiality between attorney and client be lost?

ANSWER: Yes, if attorney needs to exercise the "self-defense exception" in defending himself against a claim of wrongdoing.

28. Can the attorney-client privilege be lost? Explain.

ANSWER: Yes, with the "self-defense exception" in defending a claim of wrongdoing.

29. What are the judicial approaches to the inadvertent disclosure of confidential information?

ANSWER: There are three views: automatic waiver; no waiver; and balancing test. Answers should elaborate on each.

30. What ethical guidelines, if any, does your state follow?

ANSWER: will vary

31. What is the ethical obligation of the paralegal to the firm's client?

ANSWER: Every member of the legal team has an ethical obligation to adhere to all applicable rules. A paralegal must adhere to the same rules as the attorney-competence, confidentiality, etc. Since the attorney is responsible for his staff, the staff must comply with all applicable rules.

32. What is the ethical obligation of the paralegal to the court?

ANSWER: The rules that apply to the attorney apply to the paralegal, so a paralegal should adhere to the rules regarding candor and fairness.

33. What is the ethical obligation of a litigation support staff member to the client? To the court? Of a litigation support person from an outside firm or consultant? Explain.

ANSWER: All members of the legal team must adhere to the ethical obligations. The attorney will be held responsible as a principal for the actions of his or her agents.

34. In addition to the attorney-client relationship, are there other relationships where there is a privilege? Why would it apply to others not in the attorney-client relationship?

ANSWER: Spouse; clergy-penitent; doctor-patient; psychotherapist; and participants in settlement negotiations. These relationships are built on the free exchange of information. A patient should be free to describe all pain to a doctor, in hopes of getting treatment.

35. How is a claim of privilege made?

ANSWER: The person claiming the privilege, usually the client, has the burden to establish the existence of the privilege.

36. How is the attorney-client privilege extended to others working for the attorney?

ANSWER: The modern practice of law requires that a lawyer work with many others on a client's case, including paralegals, secretaries, investigators, etc. These agents must be covered with the privilege, or otherwise the lawyer would be required to shield everything in the work performed for a client's case.

37. What is the purpose of the self-defense exception to the confidentiality rule?

ANSWER: Lawyers who are accused of wrongdoing should be able to defend themselves. So, the right to reveal a client confidence when necessary to defend oneself against a claim of wrongful conduct is allowed.

38. Why is conflict of interest an issue for the legal team?

ANSWER: Everyone in the legal team needs to avoid working on a case wherein the interest of one client conflict with the interest of another. This can be a concern when employees of a firm change employment.

39. What is required to invoke the attorney-client privilege? Explain sufficiently for a non-legal team member to be able to understand.

ANSWER: The person claiming the privilege has the burden to establish its existence, The party must demonstrate that the information at issue was a communication between client and counsel or his employee, that it was intended to be confidential and was made in order to assist in the provision of legal advice or services.

40. What information is protected by the work product doctrine?

ANSWER: Only work created in anticipation of litigation or for trial.

41. Do the ethical rules of "fairness" prevent lawyers from aggressively advocating their client's position?

ANSWER: Perhaps, the ethical rule of fairness to opposing counsel and parties is an attempt to ensure justice even if one's client loses the case.

42. Why would a partner in a law firm be required to supervise the other lawyers in the firm?

ANSWER: The duty to supervise requires that the supervising attorney supervises all who work on a client's case.

43. How can members of the legal team demonstrate that they have been adequately supervised?

ANSWER: Keep communication flowing and document that all actions in a client's matter have been communicated to each legal team member.

Paralegal Professional 5th edition Goldman Solutions Manual

Video Case Studies
Disclosure of Status

A client is meeting with his new attorney and the attorney's paralegal. He expresses some concerns about confidentiality of information given to the paralegal.
After viewing the video case study answer the following:

1. Does the paralegal have a duty to reveal their status as a paralegal? Does the supervising attorney have the duty?

ANSWER: While there is no specific duty to reveal the status as a paralegal, the prohibition against the unauthorized practice of law requires that the paralegal make clear her role, as a paralegal bound by the same ethical obligations, such as confidentiality, as the attorney. The paralegal should also advise the client as to the limitations of her role, such as not giving legal advice. It is important for the supervising attorney to reinforce these concepts to the client.

2. Is the paralegal bound by the same rules of confidentiality as the lawyer?

ANSWER: Yes. Under the word-product doctrine and the principal-agent fiduciary rules the duty of confidentiality extends to the paralegal.

3. Is the paralegal covered under the attorney client privilege?

ANSWER: Yes. See above.

Confidentiality Issue: Family Exception?

Paralegal Judy meets with her mother in a public coffee shop and tells her mother details of the case she is working on that has her stressed out.
After viewing the video case study in www.pearsonhighered.com/careersresources, answer the following:

1. Does being stressed-out change the rules of confidentiality?

Answer: No. Being stressed-out is when the guard of the paralegal may be down and he may forget the ethical obligations of confidentiality. Few specific reasons exist to break the confidences of the client and the paralegal's state of mind is not one of them.

2. Is there a privilege that permits discussing the facts of a case with a family member?

ANSWER: No, with the possible exception of the spousal privilege, which protects communication between a husband and wife.

3. Can the facts be discussed if names are left out?

ANSWER: No. This is as common mistake of lawyers and paralegals alike, thinking but not revealing names it is okay to discuss the facts of any case in any setting. However, that is wrong. The world had gotten very small and you never know who knows whom. You may reveal enough information that a listener could deduce who the client is and the duty of confidentiality is breached.

Confidentiality Issue: Public Information

A law firm has a case that has received coverage in the local newspaper. Two of the paralegals from the same law firm are having coffee in a public coffee shop. One of the paralegals who is not assigned to the case reads an article about the client and asks her friend who is working on the case about the accuracy of the article.
After viewing the video case study at www.pearsonhighered.com/careersresources, answer the following:

1. How does public disclosure of information about a client or a case change the paralegals responsibility to maintain confidentiality?

ANSWER: It does not change the duty. Even if the information is released in a public forum, the paralegal still must protect the confidential communications of the client.

2. Are there any ethical issues in discussing cases in a public area?

ANSWER: Don't do it. Discussing cases is likely to lead to revealing confidential information of the client, particularly in a public place.

3. Is the paralegal who was not working on the case under any duty of confidentiality?

ANSWER: Typically, no. However to the extent the paralegal is consulted for an opinion about the case or to provide assistance then yes she is under the same duty.

Ethical Analysis and Discussion Questions

1. Are paralegals held to the same standard as attorneys when there is no supervising attorney?

ANSWER: In terms of ethical sanctions, paralegals are not held to the same standard as attorneys. However as a practical matter, a paralegal will be held to the same standard for purposes of tort liability (misrepresentation and fraud) and criminal culpability (unauthorized practice of law). The courts will look to protect the interests of the public.

2. What is the paralegal's duty to the client when the paralegal's employer breaches its duty to the client?

ANSWER: Under Model Rule 8.3, a paralegal is required to report ethical violations.

3. Who is responsible for the quality of legal work performed for a client, the attorney or the paralegal?

Paralegal Professional 5th edition Goldman Solutions Manual

ANSWER: Both the paralegal and the attorney have obligations to perform their duties using reasonable skill and diligence. The ultimate responsibility for the legal work performed by the paralegal lies with the attorney under his/her duty to properly train and supervise.

4. Assume you have graduated from a paralegal program at a local college. While you are looking for a job where your talents can be properly utilized, a friend asks you to help him fill out a set of bankruptcy forms using a computer program he purchased at the local office supply megawarehouse. The program is designed to pick out the exemptions after the requested information has been plugged in. See *In Re Kaitangian*, Calif. 218 BR 102 (1998). Is this the unauthorized practice of law?

ANSWER: Yes. Anytime a decision is made which affects the rights and duties of the client, the unauthorized practice of law occurs. This is true when the completion of forms involves inputting data into a computer program, which then determines bankruptcy exemptions.

Paralegal Ethics in Practice

5. Assume you are offered the opportunity to work with a local law firm providing living trust services to the public. Your responsibility would be to make presentations to community groups on the advantages of living trusts. After each session, any interested person would be able to meet with you, and you would fill out the forms, for review and transmittal to the client. You would retain half the amount collected as your fee. See *Cincinnati Bar Assn. v. Kathman,* 92 Ohio St. 3d 748 N.E.2d 1091 (2001). What ethical issues are involved? Explain.

ANSWER: This situation involves many issues of UPL: giving advice; splitting fees; lack of supervision.

Developing Your Collaboration Skills

1. The recitation of the ethical concerns should include:
   - Revealing confidential client communications may defeat the attorney-client privilege.
   - It is a conflict of interest for Kelsey to represent both the parties in this or any dispute.
   - To settle the case represents the unauthorized practice of law.

2. a. The Ethics Board should include the concerns stated above but also acknowledgement that it has no authority to reprimand Kelsey. The board may seek to reprimand the attorneys who failed to delegate and properly supervise Kelsey. The board may also report Kelsey to the prosecuting attorney's office for criminal charges of unauthorized practice of law.
   b. Client will likely attempt to determine if her legal position has been negatively impacted by these events. Client may consult with another attorney concerning fraud, malpractice and the like.

3. Advice is that Kelsey must start to maintain a better method of conflicts checking and a procedure to turn down work from attorneys when a conflict arises.

Paralegal Portfolio Exercises
The students' memorandum of law will vary depending on your state's statutes and regulations.

Legal Analysis and Writing Cases
***In the Matter of JOHN A. ARETAKIS, an Attorney, Respondent. COMMITTEE ON PROFESSIONAL STANDARDS, Petitioner,* 791 N.Y.S.2d 687**

1. Can the reputation of a professional be tarnished by disclosure of unsubstantiated claims of ethical breaches?

ANSWER: Yes, that is the concern of the disciplinary board here and the requirements of confidentiality until a final determination is reached.

2. Once tarnished can a professional reestablish his or her professional integrity?

ANSWER: It is not impossible to regain one's professional reputation but it is a difficulty task.

3. Is the greater good to allow all complaints to be made public?

ANSWER: The students opinions will vary.

Working with the Language of the Court
***Tegman v. Accident and Medical Investigations*, 30 P.3d 8 (Wash. Ct. App. 2001).**

1. How does this court define "the practice of law"?

ANSWER: The practice of law means more than simply appearing in court on behalf of another. It includes "legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured."

2. What is the standard or duty of care that this court imposes on a paralegal who does not have a supervising attorney?

ANSWER: Where a paralegal does not have a supervising attorney and conducts herself as an attorney, practicing law, she will be held to the same standard of care as the attorney.

3. What action does this court suggest that a paralegal take when it becomes clear that there is no supervising attorney?

ANSWER: When it is clear to the paralegal that she is without a supervising attorney, she has an obligation to advise the clients that she is a paralegal and that there is no attorney handling the case.

4. Why should a paralegal contact the supervising attorney immediately upon being given a case to handle?

Paralegal Professional 5th edition Goldman Solutions Manual

ANSWER: The paralegal should contact the supervising attorney to confirm that the attorney is indeed handling the case and discuss the responsibilities of the paralegal in the furtherance of the client's representation.

5. Based on this case, should a paralegal advise the client that he or she is a paralegal? If so, when? Why?

ANSWER: Yes, a paralegal should advise a client that he is a paralegal early and often. Not only should the client be advised that one is a paralegal but the limitations of the duties a paralegal can perform should be explained. The client should understand that the supervising attorney represents her interests, not the paralegal.

***Tegman v. Accident and Medical Investigations*, 30 P.3d 8 (Wash. Ct. App. 2001).**

Facts: Paralegal employed to process claims for Investigative firm. Paralegal's duties included settling cases, handling fees and giving advice to clients. All of these duties were performed by paralegal at a time when she knew or had reason to know that she was not being supervised by an attorney. Furthermore, when she left her employment she did nothing to advise her clients of the situation in the Investigative firm. Former clients sued the Investigative firm and paralegal for damages they sustained.

Procedure: Trial court found the paralegal liable to the former clients for their damages. Paralegal appeals.

Issue: Whether a paralegal, who is not supervised by an attorney, can be held to the same standard of conduct as the attorney and be liable to for damages?

Holding: Yes. Judgment affirmed.

Rationale: Where a paralegal is not properly supervised and knows or has reason to know she is not being supervised, her actions in continuing to handle matters for the client equate to the unauthorized practice of law. Where, as here, the paralegal practices law, she will be held to the same standard of care as a lawyer. In this case, the standard required the paralegal to notify the clients of the following things which she failed to do:

1. serious problems concerning the accessibility of files to persons who had no right to see them
2. client settlements were processed through a personal account rather than an attorney trust account
3. non-lawyers were representing the client interests, entering settlement agreements and collecting contingent fees, all of which is prohibited
4. non-lawyers were engaged in the unauthorized practice of law

It is because of these failures on the part of the unsupervised paralegal that the clients were damaged. As such the paralegal will be held liable.

Paralegal Professional 5th edition Goldman Solutions Manual

***Rubin v. Enns*, 23 S.W.3d 382 (Tex. App. 2000).**

1. Does the court's "rebuttable presumption" test work? Would another test work better?

ANSWER: For this case the rebuttable presumption does work to balance the interests of the client with the mobility of our present day work force. Long gone are the days where one works for the same employer for fifty years, receiving a gold watch upon retirement. To address this mobility and protect the confidential communications of former clients, the court looks for adequate efforts on the part of the paralegal and the law firm to prevent disclosure whether inadvertent or intentional.

2. Using the court's "rebuttable presumption" test, would there be some temptation on the part of the second law firm to obtain confidential information that the paralegal learned at the first law firm?

ANSWER: Temptation will always be part of the equation in the evaluation the effectiveness of erecting an ethical wall around an employee. Here the law firm had a clear policy in place that appeared to be enforced in such as a way as to avoid that temptation.

3. Do the ethics standards of the American Bar Association and paralegal associations adequately address ethical conflicts that paralegals face? Discuss.

ANSWER: The ethics standards are just that, standards of ethical behavior. It is up to courts and practitioners to establish successful programs to achieve those standards. The law firm in this case did have a written policy which it enforced.

***Rubin v. Enns*, 23 S.W.3d 382 (Tex. App. 2000).**

Facts: Paralegal changes employment from one law firm to another. The change takes place during a significant legal dispute and results in the paralegal moving from working for plaintiff's counsel to working for defendant's counsel.

Procedure: Plaintiff files writ of mandamus requesting that defense counsel be disqualified from continuing to represent defendant because of paralegal's conflict of interest. Trial court denies writ. Plaintiff appeals.

Issue: Whether a law firm should be disqualified from representing one side of a lawsuit because it has hired a legal assistant who formerly worked for the law firm on the other side?

Holding: No. Judgment affirmed.

Rationale: There are two presumptions about those non-lawyers who change their employment. One is that they obtained confidential information in their former position. This presumption is conclusive and can not be overcome.
The second presumption is that the confidential information will be shared with the new employer. This presumption may be overcome with proof that the new

Paralegal Professional 5th edition Goldman Solutions Manual

employer (1) instructed the paralegal not to work on any matter she worked on in her former employment and (2) erected an ethical wall or some other reasonable steps to prevent the paralegal from coming in contact with cases, clients, information or others who work on cases that conflict with the prior employment. In this case, there was sufficient evidence to show that the second law firm had taken both precautions and in fact had gone further to ensure that the paralegal would have no contact.

Janson v. LegalZoom.com, 802 f. Supp. 2D 1053 (W.D. MO, 2011)

1.What service may LegalZoom provide that does not violate the unauthorized practice of law (UPL) statute?

ANSWER: Providing blank documents even with general instructions would not be UPL.

1.What role does technology have in determining the UPL?

ANSWER: Technology is merely a conduit for LegalZoom's actions. The UPL comes about when humans are a part of the activities. So, the use of technology is not a problem, but using a person in conjunction with the technology becomes UPL.

1.What specific conduct did the court determine was the UPL?

ANSWER: Any time a human employee was involved with the document preparation, it goes beyond self-help. So, when the employee reviews the documents, spots errors to be corrected, reviews corrections made by the customer, checks the formatting, prints, ships and also is available for help via telephone, UPL is involved.

Janson v. LegalZoom.com, 802 f. Supp. 2D 1053 (W.D. MO, 2011)

Facts: LegalZoom maintains a website offering blank forms and an internet portal which offers an "online questionnaire" to assist customers in answering relevant questions. After the customer finishes the questionnaire and has entered information into the forms, a LegalZoom employee review the file and makes changes to formatting.

Procedure: Plaintiff sought a motion for summary judgment based on the idea that a reasonable juror could believe that Defendant was engaged in UPL.

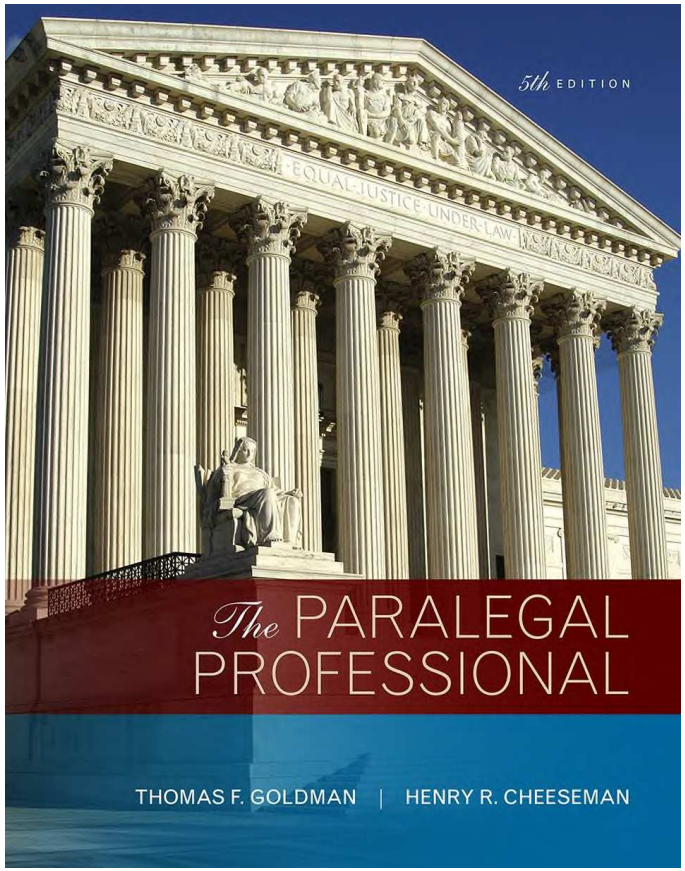
Issue: Whether the Defendant, by providing forms or assisting in filling out the forms, committed UPL even though Defendant repeatedly asserted it was not a law firm.

Holding: Motion for Partial Summary Judgment was granted

Rationale: The Court explicitly stated that merely providing blank forms using the medium of the internet was not UPL. Further, merely providing general instructions to accompany the forms would likewise not be UPL. However, when the "human employees" became involved, the service went beyond mere self-help.

The Paralegal Professional

Fifth Edition



CHAPTER 2

Ethics and Professional Responsibility

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Learning Objectives

- After this chapter you should be able to:

  2.1 Explain how the practice of law is regulated.

  2.2 Define ethics and explain the difference between the attorney's rules of ethics and the paralegal's rules of ethics.

  2.3 Explain the lawyer's ethical duty to supervise.

continued on next slide

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Learning Objectives

- After this chapter you should be able to:

  2.4 Discuss the ethical obligation of competence.

  2.5 Explain the concept of confidentiality of client communications and the attorney–client privilege.

  2.6 Discuss the concept of conflict of interest in the legal profession.

continued on next slide

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Learning Objectives

- After this chapter you should be able to:

  2.7 Describe the duty of candor to the court and other counsel and the ethical duty or fairness.

  2.8 Analyze a situation to determine whether it involves the unauthorized practice.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.1

Explain how the practice of law is regulated.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Regulation of the Practice of Law

- Attorneys
  - Are regulated by the state(s) in which they are licensed
  - Must take an examination in most states in order to practice
  - Each state has its own set of professional responsibility rules that attorneys (and other legal professionals) must follow.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Unauthorized Practice of Law

- Avoid the Unauthorized Practice of Law (UPL)
  - Do NOT provide legal advice.
  - Do NOT hold yourself out as an attorney or allow someone to believe that you are an attorney.
  - Do NOT represent clients.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.2

Define ethics and explain the difference between the attorney's rules of ethics and the paralegal's rules of ethics.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Attorney's Rules of Ethics

- Ethic guidelines are the minimum acceptable standard of behavior.
  - Each state has its own rules of responsibility, most based on the Model Rules of Professional Conduct.

continued on next slide

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Attorney's Rules of Ethics

- Ethic guidelines are the minimum acceptable standard of behavior.
  - Rules often include legal staff, especially as to client confidences and conflicts of interest.
  - ABA has issued guidelines on the appropriate utilization of legal assistants.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Ethical Rules for Paralegals

- No unified or single set of rules
  - National Federation of Paralegal Associations (NFPA)
  - National Association of Legal Assistants (NALA)
  - Some states have additional rules or regulations regarding paralegal usage or credentialing.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.3

Explain the lawyer's ethical duty to supervise.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Lawyer's Duty to Supervisor

- A lawyer must supervise the work the legal staff.
  - Model Rules of Professional Conduct 5.1 and 5.3
    - Paralegals must follow the reasonable directions of the attorney.
    - Attorney can be sanctioned by the court for ethical mishaps of the legal staff.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.4

Discuss the ethical obligation of competence.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Competence in Legal Representation

- Model Rule of Professional Conduct 1.1
  - Minimum competence is knowing the rules of the court.
  - Might require consultants or experts to explain technical components
  - Must be able to communicate complicated matters in language that the client will understand

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.5

Explain the concept of confidentiality of client communications and the attorney–client privilege.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Confidentiality in Client Matters

- Model Rule 1.6 requires confidentiality in client matters.
  - Increasingly difficult as social media and technology in every day communications becomes more and more commonplace

continued on next slide

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Confidentiality in Client Matters

- Model Rule 1.6 requires confidentiality in client matters.
  - Limit number of bullet points to 4 per slide
  - Communications between client and attorney (and staff) are privileged—cannot be shared even if the person doesn't become an actual client.
    - Judicial protections exist for inadvertent disclosure.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.6

Discuss the concept of conflict of interest in the legal profession.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Conflict of Interest in Representation

- Model Rule 1.7 prohibits representation of a client if it would be adverse to representation of a current client.
  - Applies to both attorneys and legal staff
  - Applies to private practice as well as in-house counsel
  - The legal team must always receive advice that is not influenced by the attorney's personal gain.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.7

Describe the duty of candor to the court and other counsel and the ethical duty or fairness.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Candor and Fairness in Proceedings

- Attorneys are required:
  - To present its side fairly and present supporting evidence
  - To support the process by turning over request evidence and materials
  - To disclose controlling legal authority that is contrary to their argument is not disclosed by opposing counsel

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Objective 2.8

Analyze a situation to determine whether it involves the unauthorized practice.

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual

Avoiding UPL

- It is essential for a paralegal to avoid UPL.
  - Identify yourself as a paralegal in communications and discussions with clients.
  - Review guidelines in states and agencies when it comes to filling out of forms or representation during hearings.

continued on next slide

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved. PEARSON

Paralegal Professional 5th edition Goldman Solutions Manual

Avoiding UPL

- It is essential for a paralegal to avoid UPL.
  - Request that a supervising attorney review all documents prepared by the paralegal before they are sent or filed, even if they are "routine."

Copyright © 2017 by Pearson Education, Inc.
All Rights Reserved.

Paralegal Professional 5th edition Goldman Solutions Manual