#### Law of Lawyering Outline

#### Model Rules: Origins and Evolutions, Plus Other Topics

- 1908—Canons of Ethics—terse, simple, and vague/incomplete
- 1969—Model Code—DRs=disciplinary rules; ECs=aspirational nonbinding commentary
- 1977—ABA sets out to revise
  - 1983—Model Rules are born.
  - Rules: disciplinary rule, can be enforced
  - Comments: nonbinding, but informative
- 2000—E2K
- 2013—intermediate tweaking of rules, "Ethics 2020"
- Now: ABA is looking at changes to advertising

#### Current Model Rules

- Most states keep current with ABA amdts to Model Rules, but a few state's rules are worded exactly same as ABA, and authorities in a state may interpret the same rule differently than the ABA or another state
- Some states adopted the MRs but with significant changes (GA)
- Two main components to rules: Rules and Comments.
  - Rule 1.0—definitions. Preamble ¶ 14 and 15—shall and may difference
  - Ex: if rule says L who knows confidential info may reveal it to save life, L does not have to revel it
- Most rules: (1) prohibition; (2) exception. Eg the general rule is that an L who knows C's
  confidential info can't reveal it, with some permitted and a few required exceptions (may
  or shall). If it is not permitted or req'd and the L reveals confidential info, L is subject to
  discipline
- Comments and Preamble ¶ 21
  - "Should" and Preamble ¶ 14—aspirational
  - Importance of comments in MPRE: if rule says "must" but comment says "should," the comments turn "should" into "must"—emts are more important

#### How to Read Rules/Comments

- First: Text of Rule. Preamble ¶ 14,15,18
- Then: Comments: comment structure (see cmts to MR 1.6 and 1.7)
- And: state and local bar assocs issue opinions on state rules, ABA committee issues opinions on MRs, Restatement and Law Governing Lawyers. Court and bar decisions contain grievances, disqualifications (DOs), exclusions of evidence, sanctions

#### Structure of MRs

 1. C-L relationship, 2. Counselor, 3. Advocate, 4. Transactions with non-Cs, 5. Law firms and assocs; 6. Public service; 7. Info about legal services (ads); 8. Maintaining profession's integrity

#### Rules Applied or Interpreted in Different Context

- Rules are for discipline arising from grievance, which is: discipline does NOT require damage to C, but malpractice DOES
- Preamble ¶ 20: violation of rule does not itself give rise to claim nor create presumption that legal duty was breached, but b/c rules establish a "standard of care," a violation can show a breach of duty, in for ex. a malpractice case against L.

# **The Law Of Lawyering**

Tom Andrews, Robert H. Aronson, Mark Fucile, Art Lachman

#### The Law Of Lawyering:

Law of Lawyering Hazard, Hodes, Jarvis, The Law of Lawyering shows how to approach concrete problems that arise in everyday practice while staying within the letter and spirit of the ABA Model Rules of Professional Conduct It provides the full text of each Model Rule provision in sequence followed by the authors guidance and commentary which put the rule into context help identify its key features and show its relation to other Rules and the ALI s Restatement of the Law Governing Lawyers Clear realistic examples demonstrate how each Rule applies in practice Substantially revised in this two volume Fourth Edition to reflect the recent revisions of to the Model Rules of Professional Conduct this essential book reflects the latest developments in the law governing lawyer conduct not only lawyer discipline but also legal malpractice suits for breach of fiduciary duty fee dispute litigation and fee forfeiture and disqualification of counsel for conflict of interest Lawyering Geoffrey C. Hazard (Jr.), W. William Hodes, 1985 The Law of Lawyering Geoffrey C. Hazard, W. William Hodes, 2001 The Law of Lawyering Geoffrey C. Hazard (Jr.), W. William Hodes, Peter R. Jarvis, 2020-12-04 The Law of Lawyering shows how to approach concrete problems that arise in everyday practice while staying within the letter and spirit of the ABA Model Rules of Professional Conduct It provides the full text of each Model Rule provision in sequence followed by the authors guidance and commentary which put the rule into context help identify its key features and show its relation to other Rules and the ALI s Restatement of the Law Governing Lawyers Clear realistic examples demonstrate how each Rule applies in practice Substantially revised in this two volume Fourth Edition to reflect the recent revisions of to the Model Rules of Professional Conduct this essential book reflects the latest developments in the law governing lawyer conduct not only lawyer discipline but also legal malpractice suits for breach of fiduciary duty fee dispute litigation and fee forfeiture and disqualification of counsel for conflict of interest **The Law and Ethics of Lawyering** Geoffrey C. Hazard (Jr.),2005 Extensively revised and updated The Law and Ethics of Lawyering provides an overview of the ethics of practicing law and discusses relevant provisions of the American Law Institute's Restatement of the Law Governing Lawyers Many segments of the book are substantially enhanced including the crime fraud exception to the attorney client privilege disclosure of client identity client fraud on third persons or on a tribunal regulation of excessive fees the role of the government lawyer responsibilities of the lawyer for a class form of practice restrictions regulation of multi-state and international practice and choice of law in a multi state practice The Law of Lawyering in Washington Tom Andrews, Robert H. Aronson, Mark The Law of Lawyering: The client-lawyer relationship Geoffrey C. Hazard (Jr.), W. William Fucile, Art Lachman, Hodes, John S. Dzienkowski, John S. Redditt, Peter R. Jarvis, The Law of Lawyering Geoffrey C. Hazard, 1985

**Foundations of the Law and Ethics of Lawyering** George Meredith Cohen, Susan P. Koniak, 2004 This work is a collection of articles that explore the tension between the law governing the conduct of lawyers and the complex ethics of lawyering that pulls against that law and competes with it This collection emphasizes the regulatory framework that has

developed to govern the conduct of lawyers and draws heavily on the work of law and economics scholars Law, <u>Lawyering and Legal Education</u> Charles Sampford, Hugh Breakey, 2016-10-04 Once a highly cosmopolitan profession law was largely domesticated by the demands of the Westphalian state But as the walls between sovereign states are lowered law is globalizing in a way that is likely to change law lawyering and legal education as much over the next 30 years when the students entering law schools today reach the peak of their profession as it has over the last 300 This book provides a sustained investigation of the theoretical and practical aspects of legal practice and education synthesizing and developing nearly thirty years of Professor Sampford's critical thought analysis and academic leadership The book features two major areas of investigation First it explains the significance of the critical theoretical and ethical dimensions of legal education and legal practice in making more effective practitioners placing ethics and values at the heart of the profession Second it explores the old new challenges and opportunities for ethical lawyers Challenges include those for lawyers working in large organisations dealing with issues from international tax minimisation to advising governments bent on war Opportunities range from the capacity to give client s ethical advice to playing a key role in the emergence of an international rule of law as they had to the domestic rule of law The book should stimulate great interest and occasional passion for legal practitioners students teachers and researchers of law lawyering legal practice and legal institutions Its inter disciplinary approaches should be of interest to those with interests in education theory international relations political science and government professional ethics sociology public policy and governance studies

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