

PROFESSIONAL RESPONSIBILITY

PROBLEMS AND MATERIALS

CONCISE ELEVENTH EDITION

THOMAS D. MORGAN

RONALD D. ROTUNDA

JOHN S. DZIENKOWSKI

FOUNDATION PRESS

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by

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To Kathryn, Kyndra, and Karla

PREFACE

The three years since the publication of our 10th Edition have seen a transformation in the lives of many American lawyers and students. Over 5,000 lawyers have lost their jobs entirely, many of them partners who thought they had lifetime tenure. Law students who imagined they would enter a highly-compensated, busy profession, now frequently find their entry “deferred” until an often-unspecified future date.

Some of the changes in the realities of practice can be attributed to the current economic recession, but at least part of the transformation may be traced to fundamental changes in the demand for legal services and to alternative ways of providing legal assistance. This book will explore many such changes and examine whether some of the traditional rules regulating lawyer conduct may now lack the moral and practical justification they once had.

Our Eleventh Edition tries to acknowledge the profession’s changes without losing the qualities that have made the book successful. Problems are still followed by questions designed to provoke discussion. Questions are followed by case and opinion summaries designed to give examples of ways courts and rule makers have approached the issues raised.

This Concise Edition differs from the unabridged Eleventh Edition primarily in length. It is designed for two-credit or shorter classes that cannot complete the full book. As in earlier editions, we present fundamental questions in black letter, followed by references relevant to the issues those questions raise. For the Concise Edition, we have omitted six problems entirely and shortened others by deleting cases or topics. But we have also added note material that should allow classes to cover some of the omitted issues and minimize the loss of coverage. We have not reduced the rigor required to wrestle with the questions raised.

References to the ABA Model Rules of Professional Conduct are to the Model Rules, as amended through 2010. References to the ABA Model Code of Judicial Conduct are to the 2007 version. Restatement references are to the Restatement Third, The Law Governing Lawyers, published by the American Law Institute in 2000.

This edition’s three authors thank the authors and publishers cited, in particular the American Bar Association and American Law Institute, for permission to reprint their copyrighted material. We also thank the many

professors and practitioners who have offered thoughtful comments and suggestions on our materials. We listen to those comments and we hope you will find the Eleventh Edition an up-to-date and useful successor to its predecessors.

T.D.M.

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October 2011

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