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**PROFESSIONAL
RESPONSIBILITY**
**Problems of Practice
and the Profession**

*Sixth
Edition*



Wolters Kluwer

Aspen Casebook Series

Professional Responsibility

Problems of Practice and the Profession

Sixth Edition

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Preface

The fundamental theme of this book is the necessity for lawyers to develop a philosophy of lawyering. Chapter 1 outlines three interrelated aspects of a philosophy of lawyering. At the personal level, a philosophy of lawyering deals with the relationship between lawyers' personal lives and values and their professional roles. At the practice level, a philosophy of lawyering provides guidance for lawyers on how to resolve uncertain issues of professional ethics. At the institutional level, a philosophy of lawyering involves a critical examination of the fundamental values of the legal system, such as the adversary system of dispute resolution, methods of regulation of lawyers, and mechanisms for delivery of legal services. Chapter 1 also provides an overview of various rules and standards of professional conduct along with the regulatory structure governing lawyers.

Chapters 2–5 of the book examine fundamental aspects of professional responsibility:

The Attorney-Client Relationship (Chapter 2)

The Ethical Duty of Confidentiality, the Attorney-Client Privilege, and the Work Product Doctrine (Chapter 3)

Conflicts of Interest (Chapter 4)

Limitations on Zealous Representation (Chapter 5)

The final three chapters consider special problems: Ethical Issues in Particular Areas of Practice (Chapter 6), Issues in the Delivery of Legal Services (Chapter 7), and Special Ethical Problems of Law Firms (Chapter 8). The materials present difficult problems of professional responsibility that do not have easy answers and that will require students to learn to exercise personal and professional judgment within the framework of rules of ethics.

Choice of area of practice is an important aspect of a person's philosophy of lawyering. Thus, the problems presented in these chapters arise in various areas of practices—criminal defense and prosecution, civil litigation, business practice, government, public interest, and the judiciary—so that students can begin to get a sense of the ethical dilemmas they may face in particular practice contexts. These materials should help aspiring lawyers to

obtain a feel for what it is like to be, for example, a criminal defense lawyer, a prosecutor, a civil litigator, or a business attorney. The book contains references to the literature on various areas of practice for those students who would like to delve further into these issues.

In earlier editions I organized the book by area of practice rather than ethical doctrine because I wanted to emphasize how practice context can affect ethical issues and because I wanted to give students a sense of the types of problems they would be likely to face in particular areas of practice. In these previous editions I offered professors who favored a more traditional organization the possibility of doing so through an alternative table of contents based on ethical doctrine.

In the fifth edition and in this edition I have reversed the organizational principle. While the materials are now organized by ethical doctrine, I also offer professors who prefer an organization based on area of practice, like the one used in earlier editions, the opportunity to continue to use that framework through an alternative table of contents.

This edition adds multiple choice assessment questions with answers and analysis at the end of each chapter. Students should find these questions an excellent way to review most of the basic concepts covered by the materials.

Writing and revising this book continues to be both educational and pleasurable. I hope that students and instructors who use the book have a similar experience. Needless to say, I would appreciate receiving your comments.

Nathan M. Crystal
January 2017

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