

NINTH EDITION

Professional Responsibility

Ronald D. Rotunda

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Professional Responsibility

Ronald D. Rotunda

The Doy & Dee Henley Chair and
Distinguished Professor of Jurisprudence
Chapman University School of Law

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Preface

It is said that the future will bring us not only more change but also an increase in the rate of change. That has certainly been true in the area of legal ethics. Since the American Bar Association first proposed its MODEL RULES OF PROFESSIONAL CONDUCT, in August of 1983, there have been many important additions to this model law, dealing with issues such as the sale of a law practice, government subpoenas of attorneys, direct mail lawyer advertising, unauthorized practice, and so forth. The work of ABA Commission 2000 resulted in substantial changes to the Model Rules in 2002, and more changes in 2003 and again in 2009. In addition, new court decisions and state and ABA ethics opinions, changes in multi-disciplinary practice, and the American Law Institute's entrance into the world of legal ethics, with its RESTATEMENT, THIRD, OF THE LAW GOVERNING LAWYERS (2000), have all conspired to make this new edition a necessity. The law of judicial ethics also has not stood still. In 1990 the ABA proposed a new MODEL CODE OF JUDICIAL CONDUCT, which has already been amended to take into account developments in the case law. In 2007, the ABA approved an entirely revamped new MODEL CODE OF JUDICIAL CONDUCT, and added a few modifications in 2010. And, of course, the case law and literature dealing with that topic have similarly increased. This edition keeps pace with these new developments.

I am grateful that the previous eight editions have appealed to a diverse group of readers: law students studying for law courses in legal ethics and the bar examination on that same subject; practitioners who represent lawyers in malpractice cases and discipline proceedings, or who want to evaluate ethics issues that confront them in their daily practice; academics teaching in the area; and judges. I am particularly pleased that judges have told me that they have found

this book to be valuable, and some have even cited it. E.g., *Pearson v. Parsons*, 541 So.2d 447, 452 (Miss. 1989); *Attorney Grievance Commission v. Ficker*, 319 Md. 305, 312, 572 A.2d 501, 504 (Ct.App. 1990); *Freeman v. Crown Mining, Inc.*, 90 Ohio App. 3d 546, 554, 555, 630 N.E.2d 19, 24, 25 (Ct. App. 1993); *In Re Disciplinary Proceedings Against Marks*, 265 Wis.2d 1, 20, 665 N.W.2d 836, 846 (2003) (per curiam); *Tyler v. State*, 47 P.3d 1095, 1106 (Alaska App. 2001). I hope that this new edition will be even more useful than the previous ones.

More than a few people have aided me in completing this new edition. I thank Maria Sanchez, my faculty assistant, and Professor W. William Hodes for his helpful suggestions. I am also grateful to Jennifer M. Fry, Chapman University School of Law, J.D., 2011, and James V. Bilek, Chapman School of Law, J.D. 2012, for their helpful research assistance and proofing.

In any work such as this, it is almost inevitable that a few errors might creep in, notwithstanding my efforts, the efforts of my computer spelling check, and the efforts of West Publishing's editorial staff. If any gentle reader finds any such errors, I am hopeful that one or more of the people I mentioned in the previous paragraph will assume responsibility. And, in mitigation, I plead the words of Judge Henry de Bracton over 750 years ago:

"I ask the reader, if he finds in this work anything superfluous or erroneous, to correct and amend it, pass it over with eyes half closed, for to keep all in mind and err in nothing is divine rather than human."

2 H. de Bracton, *Bracton on the Laws and Customs of England* 20 (S. Thorne trans. 1968) (circa 1250).

RONALD D. ROTUNDA

Vaitape, Bora Bora
July 2011

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