

Class 5

Alternative Dispute Resolution

What are Model Rules of Professional Conduct?

- Drafted by the American Bar Association (ABA) and periodically revised.
- The rules have no formal authority in themselves.
- Many states have adopted the MRPC as their state's code of legal ethics.
- Other states have adopted them in part or allowed them to influence their rules for professional conduct.
- Technically, they are only enforceable against attorneys through the lawyer disciplinary process.
- Covered more deeply in the **Professional Responsibility and Legal Ethics** course.
- All rules apply equally to ADR proceedings as with litigation.

The Duty to Communicate with Client – Model Rule 1.4

- **Includes:**

- 1. Keeping the client reasonably informed as to the progress in a case.**
- 2. Promptly informing the client of anything that requires the client's consent.**
- 3. Consulting with the client often enough to reasonably understand the client's goals and where the client stands with regard to the case.**
- 4. Promptly sending client any requested information regarding the client's case.**
- 5. Explaining to the client what effects the legal and ethical limits of attorney's conduct will have on his/her case.**
- 6. Explaining to the client whatever is reasonably necessary to allow the client to make informed decisions on everything the client must decide.**
- 7. Properly supervising the attorney's staff to make sure all of these responsibilities are achieved.**

The Duty to Exercise Professional Judgment – Model Rule 2.1

- **Requires:**
 - independent professional judgment
 - candid advice
- Further, the attorney may “refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation.”
- This includes the responsibility to:
 1. Make candid assessments of the strength and prospects of the client's case; “Purely technical legal advice, therefore, can sometimes be inadequate.”
 2. Not blindly follow client's directions, if such actions would be unethical, illegal or even very unsound.
 3. Avoid engaging in any dishonest representations to the client, such as heightening expectations to get the job or lowering expectations to avoid getting blamed if things go badly.

QUIZ TIME!