

# PRACTICE EXAM 21: MPRE SIMULATION

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**Time Allotted: 2 hours**

**Format: Multiple choice — select the best answer**

1. A lawyer falsifies her continuing legal education (CLE) records to indicate she completed required CLE credits that she did not actually attend. She submits the false records to the state bar to maintain her active license status. The misrepresentation is discovered during a routine bar audit of CLE compliance records.

A. The lawyer is subject to discipline under Rule 8.4(c), which makes it professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation

B. The lawyer is not subject to discipline because the CLE requirements are administrative regulations rather than rules of professional conduct in the jurisdiction

C. The lawyer is not subject to discipline because the misrepresentation did not affect any client matter or harm any specific person in her practice

D. The lawyer is subject to discipline only if the bar formally suspends her license for the CLE deficiency before any disciplinary action proceeds against her

2. A lawyer represents a client in a will contest. During a private meeting, the client tells the lawyer that he intends to kill his estranged daughter and her family that evening because they will inherit assets under a different will. The client states the threat in graphic detail. The lawyer believes the threat is credible.

A. The lawyer must maintain absolute confidentiality under Rule 1.6 because the threat was made within the attorney-client privileged setting between them during the representation

B. The lawyer may disclose only after first attempting to persuade the client not to carry out the threat, even when reasonable efforts to dissuade would consume critical time

C. Under Rule 1.6(b)(1), the lawyer may reveal information relating to the representation to the extent reasonably necessary to prevent reasonably certain death or substantial bodily harm

D. The lawyer must report the threat to her firm's managing partner and let the partner decide whether to disclose the threat to law enforcement authorities in the matter

3. A lawyer moves from Firm A to Firm B. While at Firm A, the lawyer did not personally work on a particular matter for Client X, but she had access to confidential information about the matter through firm files. Firm B now wants to represent a client adverse to X in a substantially related matter.

A. The lawyer is automatically disqualified from any work at Firm B that involves Client X, with imputation extending to all Firm B lawyers without exception or remedy under the rules

B. The lawyer is not disqualified at all because she did not personally work on the matter while at Firm A, regardless of her access to confidential information about the case

C. The lawyer is disqualified only if Client X retroactively objects to her involvement at Firm B by giving formal written notice to the new firm of his objection within a reasonable time

D. Under Rule 1.9(b), the lawyer is disqualified if she actually acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter, even without personal involvement at Firm A

4. A lawyer charges a client \$50,000 for drafting a simple two-page will and a basic durable power of attorney. The work took the lawyer approximately three hours. The lawyer's standard hourly rate is \$300, and similar work in the local market typically costs \$1,000 to \$2,500. The client signed a written engagement agreement specifying the \$50,000 flat fee.

A. The fee is permissible because the client signed a written engagement agreement specifying the amount before any work commenced on the matter in question

B. The fee likely violates Rule 1.5(a), which prohibits unreasonable fees considering factors including the time required, the customary fee for similar services, and the experience of the lawyer

C. The fee is permissible because flat fees are recognized as appropriate for estate planning matters regardless of the amount charged or hours actually worked on the documents

D. The fee is permissible because the lawyer disclosed the amount to the client and the client voluntarily agreed to pay the specified flat fee for the work in writing

5. A lawyer represents a defendant in a criminal investigation. The defendant brings to the lawyer's office a laptop computer that he tells the lawyer contains evidence of his involvement in the alleged crime. The defendant asks the lawyer to destroy the laptop. The lawyer agrees and arranges to have the laptop physically destroyed.

A. The lawyer's actions are permissible because attorney-client privilege protects communications about evidence brought to the lawyer for safekeeping in the matter being investigated

B. The lawyer's actions are permissible because she has a duty to assist the client in protecting all property the client gives her during the representation of the underlying case

C. The lawyer's actions violate Rule 3.4(a), which prohibits a lawyer from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying, or concealing material having potential evidentiary value

D. The lawyer's actions are permissible if the laptop is the client's personal property and the client has the legal right to dispose of his own personal property in the matter

6. A lawyer in private practice is approached by a venture capital firm offering to invest substantial capital in her law practice in exchange for a 30% ownership interest in the firm and two seats on the firm's management board. The venture capital firm has no lawyers among its principals. The state has adopted the Model Rules without modification.

A. Under Rule 5.4(d), the lawyer cannot accept the investment in a jurisdiction following the Model Rules because the rule prohibits a lawyer from practicing in the form of an entity authorized to practice law for a profit if a nonlawyer owns any interest therein

B. The lawyer may accept the investment because Rule 5.4(d) applies only to nonlawyer ownership of more than 50% of a law firm in any jurisdiction adopting the Model Rules of professional conduct

C. The lawyer may accept the investment if she retains operational control over the firm's day-to-day legal practice decisions despite the new ownership structure being implemented

D. The lawyer may accept the investment if she discloses the venture capital firm's interest to all clients of the firm at the outset of each new representation in writing

7. A lawyer's representation of a client ends. The client requests her case file, including documents the lawyer received from third parties, the lawyer's notes, and certain attorney work-product material. The lawyer has been fully paid for all services rendered to the client during the representation period.

A. The lawyer may retain all materials in the file because they belong to the lawyer as a matter of professional property rights once the representation is terminated by the client

B. Under Rule 1.16(d), the lawyer must surrender papers and property to which the client is entitled upon termination of the representation, with the scope of "client file" varying by jurisdiction

C. The lawyer may keep all materials until the client signs a release of any potential malpractice claims arising from the representation she terminated upon completion of the matter

D. The lawyer may keep all materials indefinitely as security in case any disputes about prior representation arise between her and the former client at a later date in time

8. A lawyer is asked by a client to prepare a written legal opinion about the client's tax position. The client intends to provide the opinion to a potential investor to support a securities offering. The lawyer recognizes that her opinion will be relied upon by the third-party investor, not just by her client in the matter.

A. The lawyer may prepare the opinion without further analysis because legal opinions are routinely prepared for client use in business transactions of various kinds in commerce

B. The lawyer must decline to prepare the opinion because preparing legal opinions for use by third parties creates an inherent conflict of interest with the client of the firm

C. The lawyer may prepare the opinion provided that she clearly states in the opinion that no third party may rely on its contents in any way for any purpose whatsoever

D. Under Rule 2.3, the lawyer may provide an evaluation for use by a third person if the lawyer reasonably believes that making the evaluation is compatible with the lawyer's other responsibilities to the client and obtains client informed consent when the evaluation is likely to affect the client's interests materially and adversely

9. A lawyer's client is considering a business strategy that involves systematically misrepresenting product specifications to government regulators to obtain approval for a new product. The client asks the lawyer to explain how to structure the misrepresentations to minimize the risk of detection by regulators during their review.

A. Under Rule 1.2(d), the lawyer must not counsel a client to engage in, or assist a client in, conduct that the lawyer knows is criminal or fraudulent, even where the client requests such advice

B. The lawyer may provide the requested advice because clients have a right to fully informed legal counsel about any business strategies they wish to pursue in the marketplace

C. The lawyer may provide the requested advice if she also explains the potential criminal consequences of the misrepresentations being made to the government during the approval process

D. The lawyer may provide the requested advice provided she clearly states that the strategy may be illegal and that the client proceeds at her own risk in pursuing it under applicable law

10. A lawyer practices solo under the name "Smith & Associates Legal Group, LLC." The lawyer has no associates and no other lawyers in her practice. She chose the name to make her practice appear larger and more established than it actually is when marketed to potential clients.

A. The firm name is permissible because solo practitioners commonly use plural-sounding names for marketing purposes and clients understand this practice in the legal industry

B. The firm name likely violates Rule 7.1, which prohibits false or misleading communications about the lawyer or the lawyer's services, including misleading firm names that imply additional lawyers

C. The firm name is permissible provided the lawyer's letterhead clearly identifies her individual name as the responsible attorney on each document she signs

D. The firm name is permissible if the lawyer obtains a written waiver from each client acknowledging she practices alone despite the firm name used in marketing

11. A lawyer admitted only in State A opens an office in State B and begins regularly handling matters for State B clients on issues governed by State B law. She has neither sought admission in State B nor obtained pro hac vice admission for individual matters. She maintains the State B office indefinitely.

A. The lawyer's State B activities are permissible because federal courts have recognized lawyers' constitutional right to practice law in any state where they choose to maintain offices

B. The lawyer's State B activities are permissible if she discloses to each State B client that she is admitted only in State A but is providing the services to them anyway

C. The lawyer's State B activities are permissible provided she associates with a State B-admitted lawyer for any actual court appearances she handles in the jurisdiction

D. Under Rule 5.5(b), the lawyer's activities constitute the unauthorized practice of law because she has established a systematic and continuous presence in State B for the practice of law without proper admission

12. A lawyer represents two co-defendants in a civil lawsuit. During the representation, it becomes clear that one defendant will assert a cross-claim against the other defendant in the same proceeding. The lawyer cannot continue to represent both clients given the cross-claim against each other in the matter.

A. The lawyer may continue to represent both clients if she obtains oral consent from both regarding the cross-claim and documents the consent in writing afterward for the file

B. The lawyer may continue to represent both clients if the cross-claim is for a relatively small amount compared to the primary lawsuit damages being sought against each defendant

C. Under Rule 1.7(b)(3), representation of one client is prohibited where the representation involves the assertion of a claim by one client against another client represented by the lawyer in the same litigation

D. The lawyer may continue to represent both clients if she obtains a court order authorizing the dual representation after disclosure of the cross-claim being asserted in the case

13. A lawyer representing the plaintiff in a civil lawsuit issues a press release stating that the defendant company has been named in the lawsuit and that the lawsuit alleges specific instances of fraud as detailed in the complaint filed yesterday in the federal district court. The press release does not contain any prejudicial commentary beyond the filed complaint.

A. The press release violates Rule 3.6 because publicizing the contents of a complaint creates substantial likelihood of materially prejudicing any subsequent civil proceeding involving the named defendant

B. Under Rule 3.6(b)(2), the press release is permissible because Rule 3.6(b) permits statements containing information about matters of public record, including the contents of pleadings filed with the court

C. The press release is permissible only if defendant's counsel agrees in writing to the publication before the release is distributed to media outlets in the area where the case is filed

D. The press release is impermissible because Rule 3.6 prohibits all lawyer-initiated extrajudicial statements about pending civil cases regardless of source or content of the statements being made

14. A lawyer represents a publicly traded corporation as outside counsel. She discovers that a senior officer of the corporation has been engaged in a sustained scheme of financial fraud that is causing substantial harm to the corporation's interests. She reports the matter to the officer's immediate superior, but no action is taken to address the misconduct discovered.

A. Under Rule 1.13(c), the lawyer should refer the matter to higher authority in the organization, including, if warranted, the highest authority that can act on behalf of the organization, such as the board of directors

B. The lawyer must immediately resign from the representation because the corporation has not promptly addressed the discovered misconduct she reported to the officer's superior in the chain

C. The lawyer must immediately disclose the misconduct to the SEC and other appropriate regulators because the corporation has failed to take action to address the financial fraud being conducted

D. The lawyer has no further obligation because she already reported the matter once to the officer's immediate superior at the corporation as required under the rule of conduct

15. A lawyer is uncertain whether she should disclose certain information about her client to comply with court rules in a pending matter. To resolve the question, she wants to consult with another lawyer at a different firm about how to handle the disclosure dilemma. The consultation will require describing the client's specific situation in some detail.

A. The lawyer may consult freely about the matter because Rule 1.6 does not protect information shared with other lawyers for educational discussion purposes between professionals in the field

B. The lawyer may not consult about the matter without first obtaining her client's express written consent to disclose the information to the outside lawyer in the consultation arrangement

C. Under Rule 1.6(b)(4), the lawyer may reveal information relating to the representation to the extent the lawyer reasonably believes necessary to secure legal advice about the lawyer's compliance with the rules

D. The lawyer may consult about the matter only if the outside lawyer signs a formal confidentiality agreement covering the information being shared during the consultation between them in advance

16. A trial has concluded and the jury has been discharged. A lawyer who represented one of the parties at trial wants to contact several of the jurors to learn about their deliberations and how they reached their verdict. The lawyer hopes to gain insights useful for handling similar cases in the future.

A. The lawyer may freely contact jurors after their discharge because their service has ended and they no longer have any special status as jurors in any proceeding

B. The lawyer may contact jurors only if the trial court issues a written order specifically authorizing post-trial juror contact in the case at hand for any purpose at all

C. The lawyer may not contact jurors under any circumstances because Rule 3.5 prohibits all lawyer communication with current or former jurors during or after trial in any matter

D. Under Rule 3.5(c), the lawyer may communicate with jurors after their discharge unless the communication is prohibited by law or court order, the juror has made known a desire not to communicate, or the communication involves misrepresentation, coercion, duress, or harassment

17. A lawyer is negotiating a settlement on behalf of her client. Opposing counsel proposes a settlement that includes, as a condition of payment, that the lawyer agree never to represent any other plaintiff against the defendant in any similar action in the future. The lawyer's client supports the settlement terms.

- A. The lawyer may agree to the restriction because her client supports the settlement and consents to the terms restricting future representation in the matter being resolved
- B. Under Rule 5.6(b), the lawyer cannot accept the restriction because the rule prohibits an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy
- C. The lawyer may agree to the restriction if she obtains a higher settlement amount in exchange for accepting the practice limitation imposed by the defendant in the case as drafted
- D. The lawyer may agree to the restriction if she has not previously represented any other plaintiffs against this same defendant at the time the settlement is signed by the parties

18. A lawyer is participating in a deposition. During the deposition, the lawyer makes repeated comments about opposing counsel's national origin, mimicking opposing counsel's accent and making remarks about her ethnicity. Opposing counsel objects on the record but the lawyer continues the conduct throughout the deposition session.

- A. The lawyer's conduct is permissible because deposition advocacy includes vigorous engagement with opposing counsel about all aspects of the matter being litigated between the parties
- B. The lawyer's conduct is permissible if the substantive deposition questioning is otherwise proper and within the scope of the noticed deposition topics for the day at hand
- C. Under Rule 8.4(g), the lawyer's conduct may be professional misconduct because the rule defines as misconduct engaging in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of protected characteristics in conduct related to the practice of law
- D. The lawyer's conduct is permissible if the trial judge does not subsequently sanction her after opposing counsel files a formal complaint to the court about the deposition behavior

19. A lawyer leaves a small law firm and joins another firm. The original firm continues to operate without her. The original firm is now considering accepting a new matter that would be substantially related to a matter the departed lawyer worked on for a former firm client during her time at the original firm.

- A. Under Rule 1.10(b), when a lawyer has terminated an association with a firm, the firm is not prohibited from representing a person with interests materially adverse to a client represented by the formerly associated lawyer, unless the matter is substantially related and any remaining lawyer has confidential information material to the matter
- B. The original firm is permanently disqualified from any matter substantially related to any case the departed lawyer worked on regardless of any other circumstances at the firm

C. The original firm may accept the new matter without restriction because the departed lawyer is no longer associated with the firm in any capacity following her departure from the firm

D. The original firm may accept the new matter only if the former client gives oral consent to the firm continuing despite the departed lawyer's involvement in the prior matter at issue

20. A lawyer charges a contingent fee equal to 45% of any recovery in a routine personal injury case with clear liability and standard damage calculations. The local market typically charges contingent fees in the range of 25% to 33% for similar matters. The lawyer's experience and expertise are within the ordinary range for the type of matter.

A. The fee is permissible because contingent fees are by nature higher to compensate the lawyer for risk of nonrecovery in all personal injury cases regardless of case strength or clarity

B. The fee is permissible because the client agreed to the percentage in a signed written contingent fee agreement before the lawyer began work on the matter being prosecuted

C. The fee is permissible because contingent fee percentages are not subject to Rule 1.5(a) reasonableness analysis in the same way as hourly fees would be evaluated under the rules

D. The fee likely violates Rule 1.5(a), which evaluates reasonableness based on multiple factors including the fee customarily charged in the locality for similar legal services, the experience of the lawyer, and the nature of the case

21. A lawyer represents a plaintiff in a personal injury case. The lawyer wants to encourage a key fact witness to appear voluntarily at trial. She offers the witness a substantial payment well in excess of statutory witness fees and reimbursement for actual lost income, in exchange for testifying favorably to the plaintiff at the trial.

A. The lawyer's offer is permissible because witnesses must be compensated for the inconvenience of attending court proceedings under various state laws governing such matters

B. The lawyer's offer is permissible because the witness is providing valuable testimony that benefits the lawyer's client in the trial of the matter being conducted

C. Under Rule 3.4(b), the lawyer's offer violates the rule because the rule prohibits offering an inducement to a witness that is prohibited by law, and offering payment contingent on favorable testimony is improper

D. The lawyer's offer is permissible if the witness's testimony at trial is in fact truthful and accurate regardless of the contingent payment arrangement between them in the matter

22. A lawyer wants to represent two clients in a matter where the lawyer cannot reasonably believe she will be able to provide competent and diligent representation to both clients given the nature of the conflict between them. Both clients are willing to give informed consent in writing to the dual representation arrangement.

A. The lawyer may proceed with both representations because both clients have given informed consent in writing as required under the rules of professional conduct in the matter

B. The lawyer may proceed with both representations if she discloses all material facts and risks to each client before they sign the consent forms presented to them

C. The lawyer may proceed with both representations if she charges each client a reduced fee to reflect any limitations on the level of service she can provide to each in the matter

D. Under Rule 1.7(b)(1), even with client consent, the lawyer cannot proceed if she does not reasonably believe she can provide competent and diligent representation to each affected client

23. A lawyer represents a client in an ongoing matter. During the representation, the client requests legal services that the lawyer is prohibited from providing under the Rules of Professional Conduct or other applicable law. The client does not understand that the requested services would violate professional standards in the field.

A. Under Rule 1.4(a)(5), the lawyer shall consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law

B. The lawyer may simply refuse to provide the requested services without explanation or consultation because the client's request is improper under the rules of professional conduct

C. The lawyer must continue representing the client without addressing the improper request because doing so might damage the client relationship in the matter at hand

D. The lawyer must withdraw from the representation immediately because the client's improper request creates an irreparable conflict between them that cannot be resolved by communication

24. A lawyer represents a wealthy client who is contemplating a legally permissible but morally questionable course of action that would severely damage a long-time business partner. The client asks the lawyer for advice. The lawyer is confident the course of action is legal but believes it is ethically problematic on multiple grounds.

- A. The lawyer must give only legal advice and avoid commenting on the ethical dimensions of the client's contemplated course of action against the partner in the matter
- B. Under Rule 2.1, in rendering advice, a lawyer 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
- C. The lawyer must refuse to advise the client at all because she finds the contemplated course of action ethically problematic from her professional standpoint in the matter
- D. The lawyer must report the contemplated action to relevant authorities even though it is legally permissible because of its ethical problems she has identified in the situation

25. A lawyer receives a settlement check made payable to her client trust account. The check is from the defendant in a personal injury case and represents settlement proceeds payable to the lawyer's client. The lawyer deposits the check and waits for the funds to clear before notifying the client of the receipt of the settlement payment.

- A. The lawyer must wait until the funds are fully cleared and verified before notifying the client of any receipt of settlement money in the matter being resolved between the parties
- B. The lawyer may delay notification indefinitely if she is also negotiating disposition of the funds with various lienholders who have claims against the settlement proceeds received
- C. The lawyer must wait until she has personally calculated the client's net share of the settlement after expenses before notifying the client of any receipt of the funds
- D. Under Rule 1.15(d), upon receiving funds or other property in which a client or third person has an interest, the lawyer shall promptly notify the client or third person

26. A lawyer discovers that her client engaged in conduct that, if reported, would identify another lawyer's serious professional misconduct. The information was disclosed by the client during the representation and is otherwise protected under Rule 1.6. The lawyer wants to report the other lawyer's misconduct to the disciplinary authority for action.

- A. The lawyer must report the misconduct regardless of confidentiality concerns because Rule 8.3 reporting obligations supersede Rule 1.6 confidentiality protections in all matters
- B. Under Rule 8.3(c), the reporting requirement does not apply to information protected by Rule 1.6 confidentiality, although the lawyer may seek client consent to disclose the information
- C. The lawyer may report the misconduct only if she also obtains formal court permission to override the Rule 1.6 confidentiality of the client's underlying information shared with her

D. The lawyer may report the misconduct only if she fully resigns from representing the client before making any report to the disciplinary authority about the other lawyer's conduct

27. A lawyer meets with a potential new client who shares confidential information about a possible legal matter. The lawyer decides not to take the case and terminates the consultation. The potential client has not paid any fees or signed any engagement agreement during the brief consultation between them at the office.

A. Under Rule 1.18(b), even when no client-lawyer relationship ensues, the lawyer shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client

B. The lawyer has no continuing obligation regarding the information because no formal attorney-client relationship was established during the brief consultation between the parties involved

C. The lawyer's continuing obligation extends only to information specifically marked as confidential by the potential client during the consultation about the matter being discussed

D. The lawyer's continuing obligation extends only to information about specific legal claims or defenses, not background information about the prospective client's circumstances generally

28. A prosecutor in a federal criminal case wants to subpoena a defense attorney to testify before a grand jury about communications between the defense attorney and her client. The prosecutor believes the testimony will be relevant to the grand jury's investigation of the underlying matter being investigated.

A. The prosecutor may freely subpoena the defense attorney because grand jury investigations have broad evidence-gathering authority for federal prosecutors investigating crimes in any jurisdiction

B. The prosecutor may subpoena the defense attorney provided the prosecutor first notifies the defense attorney's law firm of the subpoena before serving it on counsel in the matter

C. Under Rule 3.8(e), the prosecutor shall not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes the information is not privileged, the evidence is essential, and there is no other feasible alternative

D. The prosecutor may subpoena the defense attorney only if the trial court formally rules in advance that the information sought is not protected by the attorney-client privilege between them

29. A lawyer represents the plaintiff in a defamation case against a former employer. To gather evidence, the lawyer arranges for an investigator to obtain employee email communications by deceiving the

company's IT support into providing access credentials through false pretenses about a routine system check.

A. The lawyer's actions are permissible because vigorous investigation is essential to effective representation in defamation cases against employers and other entities in litigation today

B. Under Rule 4.4(a), the lawyer's actions violate the rule, which prohibits using methods of obtaining evidence that violate the legal rights of a third person in connection with the matter

C. The lawyer's actions are permissible because the investigator, not the lawyer, performed the deceptive conduct involved in obtaining the access credentials from the company's IT department

D. The lawyer's actions are permissible because the resulting emails are independently admissible at trial and the means of obtaining them does not affect their evidentiary value in the case

30. A lawyer's engagement letter contains a clause requiring the client to agree, as a condition of representation, to limit the lawyer's malpractice liability to the amount of fees paid for the representation regardless of any damages suffered. The client signs the engagement letter without consulting any independent legal counsel about the clause.

A. The clause is permissible because the client signed the engagement letter that included the limitation of malpractice liability provision in clear language understandable by the client

B. The clause is permissible because limitation-of-liability clauses are commonly used in professional service agreements across various fields and are presumptively enforceable under the law

C. The clause is permissible if the lawyer's malpractice insurance covers the full range of potential damages that might exceed the fees paid in the underlying matter for the client

D. Under Rule 1.8(h)(1), the lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement

31. A lawyer represents a corporate client in a transactional matter. The lawyer needs to share certain client information with a tax accountant working on the same transaction at the client's instruction. The information is necessary for the accountant to complete the tax analysis required for the deal to close.

A. Under Rule 1.6(a), a lawyer is impliedly authorized to make disclosures of client information when necessary to carry out the representation, including reasonable consultation with outside professionals working on the matter at the client's direction

B. The lawyer must obtain the client's express written consent for each specific disclosure to the accountant before sharing any client information about the matter being analyzed

C. The lawyer must execute a formal confidentiality agreement with the accountant before sharing any client information for the tax analysis being performed in the transaction

D. The lawyer may not share the information with the accountant under any circumstances because Rule 1.6 absolutely prohibits any third-party disclosure of client information regardless of context

32. A lawyer represented a client at trial. During the trial, the client gave testimony that the lawyer later discovered was false. The trial has now concluded with a final judgment, and all appeals have been exhausted. The lawyer is now aware of additional evidence confirming the client's false testimony at trial.

A. The lawyer has a continuing duty to disclose the client's false testimony to the tribunal because Rule 3.3 imposes ongoing remedial obligations indefinitely after any proceeding has concluded

B. The lawyer must immediately notify the trial court of the false testimony regardless of the time elapsed since the proceedings concluded with a final judgment and the appeals were exhausted

C. Under Rule 3.3(c), the duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, which is generally considered to occur when a final judgment has been affirmed on appeal or the time for review has passed

D. The lawyer must report the false testimony to the state bar disciplinary authority within thirty days of discovering the additional evidence confirming the false testimony given at the trial

33. A lawyer in State A refers a complex matter to a lawyer in State B who has specialized expertise in the relevant area. The two lawyers agree to divide the fee in proportion to the services each will perform. They do not communicate the fee-sharing arrangement to the client at any point in the representation of the matter.

A. The arrangement is permissible because fee-sharing among lawyers from different jurisdictions is common practice in complex matters requiring specialized expertise across state lines

B. Under Rule 1.5(e), a division of fee between lawyers who are not in the same firm requires that the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation, the client agrees in writing, and the total fee is reasonable

C. The arrangement is permissible because the lawyers' agreement to divide the fee in proportion to services performed satisfies all applicable requirements under the rules of professional conduct

D. The arrangement is permissible if the referring lawyer in State A discloses the referral fee to the client at the conclusion of the representation rather than at the outset of the engagement

34. A lawyer worked for the Department of Justice for several years before entering private practice. While at the Department, she personally and substantially participated in an investigation of a particular pharmaceutical company. After leaving government service, she joins a private firm that wants to represent the pharmaceutical company in matters substantially related to the prior investigation.

A. Under Rule 1.11(a), the lawyer may not represent a private client in a matter in which she personally and substantially participated as a public officer or employee unless the appropriate government agency gives its informed consent confirmed in writing

B. The lawyer may represent the pharmaceutical company without restriction because she is no longer employed by the government when undertaking the new representation through the firm

C. The lawyer may represent the pharmaceutical company if the firm screens her from the matter and apportions no part of the fee from the representation to her personally going forward

D. The lawyer may represent the pharmaceutical company if the pharmaceutical company gives informed consent to the representation after being told of her prior government work in detail

35. A lawyer enters into an agreement with a local chiropractic practice in which the chiropractic practice will refer all of its accident patients to the lawyer in exchange for the lawyer paying the chiropractic practice \$500 for each successful client referral that results in a retained representation by the lawyer.

A. The arrangement is permissible because the chiropractic practice provides a valuable service by directing patients to qualified legal representation when needed for their cases in court

B. The arrangement is permissible because the chiropractic practice receives payment only when a successful referral results in a retained representation by the firm in the matter

C. The arrangement is permissible because the chiropractic practice has independent professional reasons for the referrals that align with its patients' best interests in care under treatment

D. Under Rule 7.2(b), a lawyer shall not give anything of value to a person for recommending the lawyer's services, with limited exceptions for advertising costs, certain qualifying referral services, and other narrow categories not applicable here

36. A lawyer is serving as a mediator between two unrepresented parties in a commercial dispute. The parties have asked the lawyer to draft documents memorializing any agreement they reach. Neither party

is being separately advised by independent legal counsel during the mediation process being conducted by the lawyer-mediator.

- A. The lawyer-mediator may draft documents without further analysis because the parties have specifically requested this drafting service in addition to the mediation between them
- B. The lawyer-mediator must decline to draft any documents because Rule 2.4 prohibits a third-party neutral from drafting any documents reflecting the parties' agreement at all
- C. Under Rule 2.4(b), the lawyer-mediator shall inform unrepresented parties that the lawyer is not representing them and shall explain the difference between the lawyer's role as a third-party neutral and the lawyer's role as one who represents a client
- D. The lawyer-mediator may draft the documents provided each party signs an oral acknowledgment that the lawyer-mediator does not represent either of them in the matter being mediated by her

37. A lawyer represents a client in pending civil litigation. The lawyer wishes to withdraw from the representation due to permissive grounds under Rule 1.16(b). The case is actively before the trial court, and the court's local rules require permission for any attorney withdrawal during pending litigation in the matter being heard.

- A. Under Rule 1.16(c), a lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation, and when ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating
- B. The lawyer may withdraw immediately without court permission because Rule 1.16(b) authorizes permissive withdrawal regardless of court rules requiring permission for the withdrawal in litigation
- C. The lawyer must continue the representation through trial regardless of the existence of permissive withdrawal grounds because of the active status of the litigation in court at the time
- D. The lawyer may withdraw if she files a written notice with the court explaining her reasons even if the court has not formally approved the requested withdrawal from the matter

38. A lawyer represents a defendant in a civil action. The lawyer learns that a particular fact witness, if subpoenaed and located, would give testimony harmful to the lawyer's client. The lawyer arranges for the witness to travel out of state during the trial period to avoid being subpoenaed to testify at the trial.

- A. The lawyer's actions are permissible because witnesses are not obligated to appear at trials in which they are not formally subpoenaed to attend by either party in the case

B. The lawyer's actions are permissible because the lawyer has a duty to vigorously defend the client by any legal means available in the matter being tried in court

C. The lawyer's actions are permissible if the witness independently consents to the out-of-state travel arrangement during the relevant trial period offered by the lawyer

D. Under Rule 3.4(a), the lawyer's actions violate the rule by counseling or assisting another person to unlawfully obstruct the opposing party's access to evidence in the matter being litigated

39. A lawyer's services were used by a client to set up a business entity. The lawyer later learns that the client is currently using that business entity as a vehicle for an ongoing securities fraud scheme that is reasonably certain to result in substantial financial injury to investors. The lawyer's services facilitated the fraud being conducted.

A. The lawyer must remain silent under Rule 1.6 because the client's misuse of the business entity does not authorize any disclosure of confidential information by the lawyer in the matter

B. The lawyer must report the fraud to the SEC immediately because federal securities laws require mandatory reporting of all ongoing securities fraud schemes by counsel representing entities involved

C. Under Rule 1.6(b)(2), the lawyer may reveal information relating to the representation to the extent reasonably necessary to prevent the client from committing a crime or fraud reasonably certain to result in substantial injury to financial interests of another in furtherance of which the client has used the lawyer's services

D. The lawyer must withdraw from the representation but cannot disclose any information about the underlying fraud to investors or law enforcement authorities under the applicable rules

40. A senior partner in a law firm directly supervises a junior associate's work on a specific client matter. The junior associate is preparing settlement materials. The partner has direct supervisory authority over the associate's work product on this matter and reviews the materials before submission to the court.

A. The partner has no specific duty regarding the associate's work product beyond general firm management responsibilities under Rule 5.1(a) of the rules of professional conduct

B. Under Rule 5.1(b), a lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct

C. The partner's responsibility is limited to reviewing the associate's final work product but does not extend to the associate's compliance with the rules of professional conduct generally

D. The partner has no duty regarding the associate's work because junior associates are independently responsible for their own compliance with the rules under all circumstances of practice

41. A lawyer wants to represent two clients in a transaction. Both clients are willing to give informed consent in writing to the dual representation. However, a state statute specifically prohibits a single lawyer from representing both parties in the type of transaction the clients are pursuing in their matter together.

A. The lawyer may proceed with both representations because both clients have given informed consent in writing as required for waivable conflicts under the rules of conduct

B. The lawyer may proceed with both representations if she can demonstrate compliance with the substantive requirements of the state statute through alternative procedures in the matter

C. The lawyer may proceed with both representations if she discloses the statutory restriction to both clients before they sign their consent forms in the engagement letter for representation

D. Under Rule 1.7(b)(2), the lawyer cannot proceed because the representation is prohibited by law and is not subject to client consent to overcome the statutory prohibition in the jurisdiction

42. A lawyer learns from a news article that a major accident occurred in her area and many people were injured. The next day she goes to the scene of the accident and finds several injured persons still receiving emergency medical care at a triage station. She approaches them individually to offer her legal services for personal injury claims.

A. Under Rule 7.3, the lawyer's in-person solicitation of accident victims at the scene is impermissible because they are in vulnerable circumstances and the rule restricts live solicitation in such contexts

B. The lawyer's actions are permissible because she is providing important information about legal options to people who need legal services for their injuries sustained at the scene

C. The lawyer's actions are permissible because the accident victims voluntarily chose to listen to her presentation about her legal services offered at the triage station that day

D. The lawyer's actions are permissible provided she does not actually sign any retainer agreements at the accident scene with any of the injured persons present that day on site

43. A lawyer formerly represented a client in a business transaction. The lawyer learned confidential information during that representation about the client's negotiation strategies and business methods. The lawyer's representation of the former client ended several years ago. She now wants to use that information to advise her current client in unrelated business matters.

- A. The lawyer may freely use the information because the former client representation has ended and confidentiality obligations terminate when the representation is over for any matter
- B. The lawyer may use the information only if the former client subsequently agrees in writing to authorize the use of confidential information in unrelated matters before her firm undertakes them
- C. Under Rule 1.9(c), a lawyer who has formerly represented a client in a matter shall not use information relating to the representation to the disadvantage of the former client, except as the Rules would permit or require with respect to a client or when the information has become generally known
- D. The lawyer may use the information provided that the current client matter is sufficiently unrelated to the former client representation as a substantive matter of business and law

44. A senior partner directs her firm's investigator to obtain evidence by methods that the partner knows would violate the Rules of Professional Conduct if performed directly by the partner herself. The investigator follows the partner's instructions and obtains the evidence using the prohibited methods for use in the case.

- A. The partner is not subject to discipline because the investigator, not the partner, actually performed the methods of obtaining the evidence in the matter being litigated by the firm
- B. Under Rule 8.4(a), it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another
- C. The partner is not subject to discipline because the investigator is not a lawyer and not directly bound by the Rules of Professional Conduct in his work for the firm on the case
- D. The partner is not subject to discipline if she did not personally observe the investigator using the prohibited methods to obtain the evidence in the matter being investigated

45. A lawyer represents a corporation. During an internal investigation, the lawyer interviews a mid-level employee about the events under investigation. The employee assumes the lawyer represents her personally as well as the corporation. The lawyer realizes the employee's individual interests may conflict with the corporation's interests in the matter.

- A. Under Rule 1.13(f), the lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing
- B. The lawyer may continue the interview without clarifying her client identity because she has no individual representation relationship with the employee in any formal capacity

C. The lawyer may continue the interview because employee assumptions about lawyer representation are not the lawyer's responsibility to address in any way during the investigation process

D. The lawyer must terminate the interview immediately because any conflict between corporate and individual interests creates a per se prohibition on continued discussion in the matter

46. A lawyer offers documentary evidence at trial. After the documentary evidence has been admitted, the lawyer comes to know that the evidence is false. The proceeding has not yet concluded, and the lawyer's client refuses to allow the lawyer to disclose the falsity of the evidence to the tribunal at this point in the trial.

A. The lawyer must continue the trial without disclosure because the client's instruction not to disclose is binding on the lawyer regardless of any other consideration of duty to the tribunal

B. The lawyer must immediately withdraw all evidence she has offered at trial regardless of which evidence is actually false in the case being tried by the court at the time

C. Under Rule 3.3(a)(3), if a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal

D. The lawyer must continue the trial and report the false evidence to the state bar after the proceeding has fully concluded without affecting the underlying trial proceeding in any way

47. A lawyer represents a corporate client in ongoing transactional matters. Through the representation, the lawyer learns of an undisclosed acquisition target the client is planning to pursue. The lawyer uses this information to buy stock in the target company before the acquisition is publicly announced, with the lawyer profiting from the resulting stock price increase.

A. The lawyer's stock purchase is permissible because the information about the acquisition target is the type of business intelligence that lawyers naturally encounter in practice without restriction

B. Under Rule 1.8(b), the lawyer's stock purchase violates the rule because a lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent

C. The lawyer's stock purchase is permissible if the lawyer subsequently donates the profits to the client after the acquisition is completed and announced publicly by the company involved

D. The lawyer's stock purchase is permissible because the lawyer did not communicate the information about the acquisition target to any third party for use in trading by them

48. An associate at a firm faces an ethical question of arguable nature. The associate consults with a supervising partner who instructs the associate to take a particular course of action that the partner has determined is consistent with the Rules of Professional Conduct. The associate is uncertain but follows the partner's direction in the matter.

- A. The associate is independently subject to discipline because each individual lawyer is responsible for compliance with the Rules of Professional Conduct in all situations regardless of any direction received
- B. The associate is independently subject to discipline regardless of supervisory direction because Rule 5.2 imposes individual responsibility on all lawyers without exception of any kind whatsoever
- C. The associate is independently subject to discipline because the associate's uncertainty about the ethical issue creates personal responsibility for full compliance with the rules of conduct
- D. Under Rule 5.2(b), a subordinate lawyer does not violate the Rules of Professional Conduct if the lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty

49. A lawyer is serving as an arbitrator in a commercial dispute between two parties. One of the parties is represented by counsel, and the other party is appearing pro se. During the arbitration, the pro se party expresses confusion about certain procedural matters relating to the case being heard at the time.

- A. The lawyer-arbitrator may not address the pro se party's questions because doing so would be inappropriate for a neutral arbitrator under any circumstances during the proceeding
- B. The lawyer-arbitrator should refuse to continue the arbitration because the pro se party's confusion makes the proceeding fundamentally unfair to participants in the case at hand
- C. Under Rule 2.4, the lawyer-arbitrator may provide procedural information without giving legal advice but must explain the difference between the lawyer's role as arbitrator and the role of a representative
- D. The lawyer-arbitrator should suspend the arbitration until the pro se party obtains counsel because pro se parties are not capable of effectively participating in arbitrations of this kind

50. A lawyer represents a client who has been charged with a crime. During the representation, the client tells the lawyer the location of physical evidence related to the alleged crime. The lawyer takes physical possession of the evidence to examine it for purposes of the representation in the matter being defended.

- A. The lawyer must comply with applicable law regarding tangible evidence, which generally requires that physical evidence of a crime be turned over to authorities while the source remains confidential under Rule 1.6
- B. The lawyer may permanently retain the physical evidence under Rule 1.6's confidentiality protections because the client communicated the location to her during representation of the criminal case
- C. The lawyer may destroy the physical evidence if doing so would benefit the client's defense in the criminal matter pending against the client at the time of the case
- D. The lawyer must immediately disclose to law enforcement the client's name, location, and the circumstances of how she acquired the physical evidence in the matter without delay

51. A lawyer has practiced law for many years using only paper files and personal computers. New technology, including AI-assisted legal research tools and secure cloud-based document management, has become standard in her area of practice. She refuses to learn about or use any new technology in her practice.

- A. The lawyer's approach is permissible because she has decades of successful practice using only traditional methods of legal practice in the field of her specialty area generally
- B. Under Comment [8] to Rule 1.1, competent representation requires that a lawyer keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology
- C. The lawyer's approach is permissible if her clients do not specifically request that she use modern technology in their representation in the matter being handled by her firm
- D. The lawyer's approach is permissible if her work product is otherwise satisfactory regardless of the methods she uses to produce it for clients of her firm in the practice

52. A lawyer is participating in pretrial proceedings for a criminal case. She makes an extrajudicial statement to a local news reporter discussing certain procedural rulings the court has made in the case. The statements are accurate and do not reveal any prejudicial information about the defendant or the substantive merits of the case being tried.

- A. The statements violate Rule 3.6 because all extrajudicial commentary by lawyers about pending criminal cases is prohibited regardless of content or context in the jurisdiction
- B. The statements violate Rule 3.6 because procedural rulings cannot be discussed publicly under any circumstances during pending criminal litigation in the jurisdiction where the case is filed

C. The statements violate Rule 3.6 because criminal case extrajudicial commentary is held to a stricter standard than civil case commentary regardless of content of the statements

D. Under Rule 3.6(a), the statements are likely permissible because the rule prohibits only extrajudicial statements that the lawyer knows or reasonably should know will be disseminated by public means and will have a substantial likelihood of materially prejudicing an adjudicative proceeding

53. A lawyer represents a client whose cognitive capacity has significantly declined. The lawyer is taking protective action under Rule 1.14(b) by consulting with the client's family members about her diminished capacity. The lawyer needs to share some confidential information from the representation to obtain meaningful family assistance in the matter.

A. Under Rule 1.14(c), information relating to the representation of a client with diminished capacity is protected by Rule 1.6, but when taking protective action under Rule 1.14(b), the lawyer is impliedly authorized to reveal information about the client to the extent reasonably necessary to protect the client's interests

B. The lawyer may not share any confidential information with the family without the client's express written consent regardless of the diminished capacity situation in the matter at hand

C. The lawyer may share all confidential information from the representation with family members because the client's diminished capacity eliminates confidentiality protections in the matter

D. The lawyer must obtain a formal court order before sharing any confidential information with family members about the client's diminished capacity matter being addressed by counsel

54. A lawyer is reviewing her annual practice activities at year-end. She has not provided any pro bono legal services during the year and has not made any financial contributions to organizations providing legal services to persons of limited means at any time during the year.

A. The lawyer is subject to discipline because Rule 6.1 imposes mandatory annual pro bono service requirements on all attorneys in active practice in the jurisdiction at all times

B. The lawyer is not subject to discipline only if she paid a fee in lieu of pro bono service to her state bar's legal services fund during the year being reviewed at year-end

C. Under Rule 6.1, every lawyer has a professional responsibility to provide legal services to those unable to pay, with an aspirational goal of at least 50 hours per year, but the rule is aspirational rather than mandatory

D. The lawyer is subject to discipline because all states have adopted Rule 6.1 with mandatory annual pro bono service requirements for active practitioners in the jurisdiction without exception

55. A lawyer is representing Client X in an ongoing matter. A potentially lucrative new client approaches the lawyer with a matter that would be directly adverse to Client X, creating a non-consentable conflict. The lawyer wants to drop Client X to take on the more lucrative new representation for the firm.

A. The lawyer may drop Client X provided that her work on Client X's current matter has been completed substantially as expected by the parties to the representation in the matter

B. The lawyer may drop Client X if Client X is given sufficient notice to obtain alternative representation for the matter currently being handled by the lawyer for him in court

C. The lawyer may drop Client X if the new representation will substantially benefit the firm financially compared to the existing Client X representation in terms of revenue generation

D. Under the "hot potato" doctrine, a lawyer cannot drop a current client like a hot potato to take on a more lucrative new representation that would create a conflict with the current client

56. A lawyer represents a client in an ex parte hearing on a temporary restraining order. The opposing party is not present and not represented at the proceeding. The lawyer is aware of certain material facts that, if disclosed, would significantly undermine her client's position in the requested temporary restraining order before the court.

A. The lawyer may withhold the adverse material facts because adversarial proceedings naturally place opposing party's interests in tension with the lawyer's client interests in any matter

B. Under Rule 3.3(d), in an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse to the client

C. The lawyer may withhold the adverse facts because the ex parte hearing's preliminary nature means full disclosure is required only at later contested proceedings on the same TRO matter

D. The lawyer may withhold the adverse facts provided she advises her client to acknowledge them in subsequent contested proceedings related to the TRO order being requested at this stage

57. A lawyer represents the plaintiff in a civil case against an individual defendant. The defendant is represented by counsel, but the defendant personally contacts the plaintiff's lawyer and asks to discuss the case. The defendant insists on direct communication and refuses to involve his own counsel in the conversation with plaintiff's lawyer.

- A. The lawyer may communicate with the defendant freely because the defendant initiated the contact and waived his Rule 4.2 protections through the contact in the matter
- B. The lawyer may communicate with the defendant provided she first informs the defendant that he should consult his own counsel before any further discussion of the matter at issue
- C. Under Rule 4.2, the lawyer should not communicate about the subject of the representation with the represented defendant without consent of his lawyer, even when the defendant initiates the contact and seeks to bypass his own counsel
- D. The lawyer may communicate with the defendant if she records the conversation and sends a copy to defendant's counsel afterward to document the substance of the discussion between them

58. A senior partner at a law firm dies. The partnership agreement provides that, following the partner's death, the firm will continue to pay her share of profits to her estate for a period of three years. Her widow, who is not a lawyer, is the beneficiary of the estate and would receive those payments under the agreement.

- A. The arrangement violates Rule 5.4(a) because the rule prohibits all fee sharing between lawyers and nonlawyers regardless of the source or context of the payments being made to the recipient
- B. The arrangement violates Rule 5.4(a) because the estate represents nonlawyer ownership in a law firm partnership regardless of the timing of any payments being made over the years
- C. The arrangement is permissible because the firm continues to operate without the deceased partner's involvement, separating the payments from any practice activities of the firm
- D. Under Rule 5.4(a)(1), a lawyer or law firm may include nonlawyers in a compensation or retirement plan, including payments to the estate of a deceased lawyer over a reasonable period of time

59. A judge is presiding over a complex case and has been working extensively on the substantive issues. The judge would prefer to recuse from the case to avoid the demanding workload. The judge has no actual conflict of interest, bias, or other disqualifying ground that would require recusal under the Code of Judicial Conduct.

- A. Under Rule 2.7 of the Code of Judicial Conduct, a judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law, and personal workload preferences do not constitute grounds for recusal
- B. The judge may recuse for any reason the judge deems appropriate because judicial discretion extends to all aspects of case management at all stages of any matter

C. The judge may recuse if she discloses her workload preference to the parties and they consent to her stepping aside from the case before her in the matter at issue

D. The judge may recuse if she identifies a colleague willing to take over the case voluntarily during the term of the assignment by the court administration office

60. A judge serves as an active member of the board of directors of a local civil rights advocacy organization. The organization regularly takes public positions on legal and policy issues, including positions on matters that may come before the judge's court. The judge participates in the organization's strategy decisions and public advocacy efforts.

A. The judge's activities are permissible because civic engagement on civil rights issues is generally encouraged for members of the legal community in their personal lives outside of judicial duties

B. Under Rule 3.7 of the Code of Judicial Conduct, a judge may participate in activities sponsored by certain organizations only if the activities do not interfere with the proper performance of judicial duties or undermine the judge's independence, integrity, or impartiality

C. The judge's activities are permissible if the judge ensures that the organization's positions never directly involve cases that come before her court at any time during her tenure

D. The judge's activities are permissible if the judge recuses from any case involving the organization's specific advocacy positions in particular matters being heard by her court

## ANSWER KEY – PRACTICE EXAM 21 (MPRE)

**1. A** — Rule 8.4(c) makes it professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Falsifying CLE attendance records submitted to the state bar to maintain licensure is a direct misrepresentation to a regulatory authority. The misconduct's connection to licensure compliance — rather than a client matter — does not insulate the lawyer from discipline.

**2. C** — Rule 1.6(b)(1) permits a lawyer to reveal information relating to the representation to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm. A credible, imminent, graphically detailed homicide threat satisfies the reasonable-certainty standard. The exception applies regardless of whether the underlying communication occurred within the attorney-client relationship.

**3. D** — Rule 1.9(b) disqualifies a lawyer from representing a person in a substantially related matter adverse to a former firm client if the lawyer acquired Rule 1.6 or 1.9(c)-protected information material to the matter while at the prior firm. Personal involvement is not required — actual acquisition of confidential

information is the trigger. Firm-file access producing material confidential information is sufficient to disqualify.

**4. B** — Rule 1.5(a) prohibits an unreasonable fee, evaluated against factors including the time and labor required, the customary local fee, the experience and ability of the lawyer, and the nature of the legal question. A \$50,000 fee for three hours of routine work, where local market rates are \$1,000–\$2,500, is facially unreasonable. Client signature on the engagement letter does not cure an objectively unreasonable fee.

**5. C** — Rule 3.4(a) prohibits a lawyer from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying, or concealing a document or other material having potential evidentiary value, including counseling or assisting another to do so. Arranging the physical destruction of a laptop the client has identified as containing crime evidence falls squarely within the prohibition. Attorney-client privilege over communications does not authorize destruction of the underlying physical evidence.

**6. A** — Rule 5.4(d) prohibits a lawyer from practicing with or in the form of a professional corporation or association authorized to practice law for a profit if a nonlawyer owns any interest therein, is a corporate director or officer or holds equivalent managerial position, or has the right to direct or control the lawyer's professional judgment. Nonlawyer venture-capital ownership and board seats violate all three prongs. The Model Rules absolute bar is not cured by operational control retention or client disclosure.

**7. B** — Rule 1.16(d) requires a lawyer, upon termination of representation, to take steps to the extent reasonably practicable to protect a client's interests, including surrendering papers and property to which the client is entitled. The scope of the "client file" varies by jurisdiction, with majority and minority approaches dividing on attorney work product and notes. The lawyer cannot retain materials as leverage against malpractice claims or for similar tactical reasons.

**8. D** — Rule 2.3 permits a lawyer to provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client. When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the client's informed consent is required. The third-party reliance framework is expressly authorized rather than prohibited.

**9. A** — Rule 1.2(d) prohibits a lawyer from counseling a client to engage, or assisting a client, in conduct that the lawyer knows is criminal or fraudulent, but the lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law. Structuring misrepresentations to evade detection is direct assistance with fraud. The client's request for such advice does not authorize the lawyer to provide it.

**10. B** — Rule 7.1 prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services. A firm name that implies the existence of associates and a "legal group" structure for a solo practitioner is misleading to the consuming public. The misleading nature of the firm name is not cured by individual-name letterhead disclosure or client waiver.

**11. D** — Rule 5.5(b) provides that a lawyer who is not admitted to practice in a jurisdiction shall not establish an office or other systematic and continuous presence in this jurisdiction for the practice of law or hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. Maintaining an indefinite State B office handling State B clients on State B law constitutes prohibited systematic and continuous presence. The temporary-practice exceptions of Rule 5.5(c) do not apply to this fact pattern.

**12. C** — Rule 1.7(b)(3) provides that even with informed consent, a lawyer cannot represent two clients in the same litigation when one client asserts a claim against another client represented by the lawyer in the same proceeding. The cross-claim creates a direct adversity that the rule treats as non-consentable in a single litigation context. Withdrawal from one or both representations is required to resolve the conflict.

**13. B** — Rule 3.6(b)(2) provides a safe harbor permitting statements containing information about matters of public record. A filed complaint is a court record of public access, and statements reporting its contents fall within the safe harbor. Defense counsel agreement is not required for plaintiff's counsel to comment on matters of public record.

**14. A** — Rule 1.13(b)–(c) provides that when a lawyer for an organization knows that an officer is engaged in conduct that is a violation of law reasonably imputable to the organization and likely to result in substantial injury to the organization, the lawyer shall refer the matter to higher authority in the organization, including, if warranted, the highest authority that can act on behalf of the organization. Failure to respond by the officer's superior triggers the escalation duty. The board of directors typically represents the highest authority that can act for the organization.

**15. C** — Rule 1.6(b)(4) permits a lawyer to reveal information relating to the representation to the extent the lawyer reasonably believes necessary to secure legal advice about the lawyer's compliance with these Rules. The exception is designed to allow lawyers to seek ethics guidance without separately violating confidentiality in the process. The consulted lawyer is bound to maintain confidentiality of the information received.

**16. D** — Rule 3.5(c) provides that a lawyer shall not communicate with a juror or prospective juror after discharge of the jury if the communication is prohibited by law or court order, the juror has made known to the lawyer a desire not to communicate, or the communication involves misrepresentation, coercion, duress, or harassment. Outside those restrictions, post-discharge juror contact is permitted. Court orders or jurisdiction-specific local rules can restrict such contact further.

**17. B** — Rule 5.6(b) prohibits a lawyer from participating in offering or making an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy. The rule protects the public's access to counsel by preventing defendants from buying off skilled plaintiffs' counsel through settlement-conditioned practice restrictions. Client consent does not authorize the lawyer to accept the restriction.

**18. C** — Rule 8.4(g) makes it professional misconduct for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to the practice of law. Repeated derogatory commentary on

opposing counsel's national origin and accent during a deposition is conduct related to the practice of law. The rule applies independent of any judicial sanction in the underlying matter.

**19. A** — Rule 1.10(b) provides that when a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless the matter is the same or substantially related and any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter. Both conditions must be present to disqualify the firm. Departure of the personally involved lawyer typically frees the firm absent residual confidential information.

**20. D** — Rule 1.5(a) lists multiple factors for evaluating fee reasonableness, including the fee customarily charged in the locality for similar legal services, the experience and ability of the lawyer, and the nature and difficulty of the questions involved. A 45% contingent fee in a routine personal injury case with clear liability, when local custom is 25%–33%, is excessive on the customary-fee factor. The rule's reasonableness analysis applies to contingent fees just as to hourly fees.

**21. C** — Rule 3.4(b) prohibits a lawyer from offering an inducement to a witness that is prohibited by law. Payment substantially exceeding statutory witness fees and reimbursement for actual lost income, contingent on testimony favorable to the lawyer's client, constitutes a prohibited inducement. The truthfulness of the testimony does not cure the impropriety of the contingent payment structure.

**22. D** — Rule 1.7(b)(1) provides that even with informed consent, a lawyer cannot represent a client unless the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client. The reasonable-belief threshold is an objective limit on the consent that clients can give. Client willingness to consent cannot override the lawyer's threshold professional judgment about feasibility.

**23. A** — Rule 1.4(a)(5) requires a lawyer to consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law. The consultation duty informs the client about why the requested services cannot be provided. Silent refusal or unilateral withdrawal fails the communication obligation.

**24. B** — Rule 2.1 directs that in rendering advice, a lawyer 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. The rule expressly authorizes — though does not require — the lawyer to bring non-legal considerations into advice when relevant. Limiting advice strictly to legal permissibility underserves the client's broader interests.

**25. D** — Rule 1.15(d) requires that upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person, promptly deliver any funds or property the client is entitled to receive, and, upon request, render a full accounting. The promptness requirement is not deferred by check clearing or lien-allocation negotiations. The notification is independent of subsequent disbursement decisions.

**26. B** — Rule 8.3(c) provides that the reporting requirements stated in Rule 8.3 do not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program. The confidentiality protections supersede the reporting duty when the information is protected by Rule 1.6. The lawyer may seek client consent to enable reporting but is not required to report against confidentiality.

**27. A** — Rule 1.18(b) provides that even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client. The duty attaches based on the consultation itself, not the formation of a representation. No engagement letter or fee is required to trigger the protection.

**28. C** — Rule 3.8(e) provides that a prosecutor shall not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes that the information sought is not protected from disclosure by any applicable privilege, the evidence sought is essential to the successful completion of an ongoing investigation or prosecution, and there is no other feasible alternative to obtain the information. The three conditions are cumulative. The rule embodies recognition of the special institutional protections afforded the lawyer-client relationship.

**29. B** — Rule 4.4(a) prohibits a lawyer, in representing a client, from using means that have no substantial purpose other than to embarrass, delay, or burden a third person, or from using methods of obtaining evidence that violate the legal rights of such a person. Obtaining email access by deceiving IT support into providing credentials violates the rights of the company and likely additional laws. Use of an investigator as the direct actor does not insulate the lawyer under Rule 8.4(a).

**30. D** — Rule 1.8(h)(1) prohibits a lawyer from making an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement. The independent representation requirement is structural and cannot be waived by client signature alone. Existence of malpractice insurance is not a substitute for the rule's protective procedure.

**31. A** — Rule 1.6(a) permits a lawyer to make disclosures of client information when impliedly authorized in order to carry out the representation. Sharing necessary client information with the client's tax accountant working on the same transaction at the client's direction is paradigmatic implied authorization. The mechanism allows the legal representation to proceed efficiently without separate written consent for each routine professional consultation.

**32. C** — Rule 3.3(c) provides that the duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6. The conclusion of the proceeding is generally considered to occur when a final judgment has been affirmed on appeal or the time for review has passed. Post-conclusion discovery of false testimony falls outside the Rule 3.3 remedial duty, though other obligations may apply.

**33. B** — Rule 1.5(e) provides that a division of a fee between lawyers who are not in the same firm may be made only if the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation, the client agrees to the arrangement, including the share each lawyer will receive, in a writing signed by the client, and the total fee is reasonable. All three elements

are required. Failure to obtain the client's written agreement to the arrangement defeats the fee-sharing structure.

**34. A** — Rule 1.11(a) provides that a lawyer who has formerly served as a public officer or employee of the government is subject to Rule 1.9(c) and shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation. Personal and substantial participation in a Department investigation triggers the bar. Agency consent is the only path to representation in a matter falling within the rule.

**35. D** — Rule 7.2(b) provides that a lawyer shall not compensate, give, or promise anything of value to a person for recommending the lawyer's services except that a lawyer may pay the reasonable costs of advertisements or communications permitted by this Rule, pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service, pay for a law practice in accordance with Rule 1.17, and refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for reciprocal referrals. Per-referral cash payments to a chiropractic practice fit none of the exceptions. The rule prevents financial inducements from distorting the channel through which clients reach legal representation.

**36. C** — Rule 2.4(b) provides that a lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them, and when the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client. The disclosure duty addresses the parties' likely confusion about whether the lawyer-mediator is acting as their counsel. Drafting documents is permissible when accompanied by the required role explanation.

**37. A** — Rule 1.16(c) requires a lawyer to comply with applicable law requiring notice to or permission of a tribunal when terminating a representation, and when ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation. Local court rules requiring permission to withdraw must be obeyed. The Rule 1.16(b) permissive grounds for withdrawal do not override tribunal-imposed procedural requirements.

**38. D** — Rule 3.4(a) prohibits a lawyer from unlawfully obstructing another party's access to evidence and from counseling or assisting another person to do any such act. Arranging for a witness to travel out of state during trial to defeat subpoena access is exactly the type of obstruction the rule targets. Witness consent to the travel does not cure the lawyer's improper purpose in arranging the absence.

**39. C** — Rule 1.6(b)(2) permits a lawyer to reveal information relating to the representation to the extent the lawyer reasonably believes necessary to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services. Both the lawyer's-services prong and the substantial-injury prong are satisfied where the lawyer set up the entity now used in the fraud. Disclosure is discretionary, not mandatory, under the rule.

**40. B** — Rule 5.1(b) provides that a lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

The duty is personal to the supervisor over the work of the supervised lawyer. It is independent of and additional to Rule 5.1(a)'s firm-management responsibilities.

**41. D** — Rule 1.7(b)(2) provides that even with informed consent, the lawyer cannot represent both clients if the representation is prohibited by law. State statutes prohibiting dual representation in particular transactions remove the matter from the realm of consentable conflicts entirely. Client consent has no effect when underlying law forbids the representation outright.

**42. A** — Rule 7.3 restricts live person-to-person solicitation, particularly when directed at persons known to need legal services in a specific matter and who are in vulnerable circumstances. Accident victims still receiving emergency triage care are in the paradigm vulnerable state the rule protects against. The protective rule operates regardless of voluntary listening, in-the-moment retainer execution, or perceived informational benefit to the victim.

**43. C** — Rule 1.9(c) provides that a lawyer who has formerly represented a client in a matter shall not thereafter use information relating to the representation to the disadvantage of the former client except as the Rules would permit or require with respect to a client, or when the information has become generally known. Strategic negotiation methods learned in a representation are not generally known. Use of such information against the former client's interests in unrelated current matters is prohibited.

**44. B** — Rule 8.4(a) makes it professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another. A partner directing a nonlawyer investigator to perform conduct the partner could not perform directly squarely fits the "through the acts of another" prong. Lack of personal observation does not insulate the partner who directed the misconduct.

**45. A** — Rule 1.13(f) provides that in dealing with an organization's directors, officers, employees, members, shareholders, or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing. The clarification is required precisely when employees may misperceive personal representation. The duty arises whenever the conflict between corporate and individual interests is apparent to the lawyer.

**46. C** — Rule 3.3(a)(3) provides that if a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. The duty applies even when the client refuses to consent to disclosure, because candor to the tribunal supersedes client preference. Continued silence is not an option once the lawyer knows the offered evidence is false.

**47. B** — Rule 1.8(b) provides that a lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules. Insider trading on the basis of confidential acquisition-target information uses client information to gain a personal advantage in the stock market, and the resulting price increase ahead of the client's acquisition disadvantages the client. The misuse violates the rule regardless of subsequent disposition of profits or third-party non-disclosure.

**48. D** — Rule 5.2(b) provides that a subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty. The rule recognizes appropriate deference to supervisory judgment on contested ethical questions. The protection applies only when the question is genuinely arguable and the supervisor's resolution is reasonable.

**49. C** — Rule 2.4 governs a lawyer serving as a third-party neutral and requires the lawyer to inform unrepresented parties that the lawyer is not representing them and to explain the difference between the lawyer's role as third-party neutral and the role of a representative. The neutral arbitrator may provide procedural clarification that does not constitute legal advice, but must distinguish that information from representation. The role-distinction explanation protects the pro se party from misunderstanding the neutral's function.

**50. A** — Rule 1.6 protects the client's confidential communication (including the location information shared with the lawyer), but a lawyer who takes physical possession of evidence of a crime must comply with applicable law, which generally requires turning the physical evidence over to authorities. The protection of the client's communication is preserved separately from the obligation regarding the physical object itself. Retention, destruction, or unilateral non-disclosure of the physical evidence raises Rule 3.4(a) and obstruction-of-justice concerns independent of Rule 1.6.

**51. B** — Comment [8] to Rule 1.1 provides that to maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology. The duty is part of the foundational competence requirement, not a separate optional standard. Refusing to engage with technology that has become standard in the area of practice undermines competent representation.

**52. D** — Rule 3.6(a) prohibits a lawyer who is participating in the investigation or litigation of a matter from making an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Accurate, non-prejudicial reporting on procedural rulings does not meet the substantial-likelihood-of-material-prejudice standard. The rule targets only statements meeting both the dissemination and prejudice elements.

**53. A** — Rule 1.14(c) provides that information relating to the representation of a client with diminished capacity is protected by Rule 1.6, but when taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests. The protective-action exception accommodates the practical need to consult with family or others who can help. The implied authorization is bounded by the protective purpose and the necessity standard.

**54. C** — Rule 6.1 provides that every lawyer has a professional responsibility to provide legal services to those unable to pay, and a lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. The rule is aspirational rather than mandatory in the Model Rules. While some jurisdictions have implemented mandatory reporting or other variations, the baseline Model Rule does not subject a lawyer to discipline for failing to perform a specific number of pro bono hours.

**55. D** — The "hot potato" doctrine, recognized in case law applying Rule 1.7 and 1.16, prohibits a lawyer from dropping a current client to convert that client into a former client in order to take on a more lucrative new representation that would otherwise create a current-client conflict. Withdrawal from current representation cannot be used to manufacture a more favorable conflicts position for the lawyer. The doctrine protects the integrity of the loyalty owed to existing clients.

**56. B** — Rule 3.3(d) provides that in an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse. The candor obligation in ex parte proceedings is heightened because the adversary is not present to surface contrary facts. The rule cannot be deferred to later contested proceedings.

**57. C** — Rule 4.2 prohibits a lawyer, in representing a client, from communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order. The rule protects the represented party's lawyer-client relationship and is not waived by the represented party's unilateral attempt to bypass counsel. The plaintiff's lawyer must decline the communication absent defense counsel's consent.

**58. D** — Rule 5.4(a)(1) provides an exception to the general fee-sharing prohibition for an agreement by a lawyer with the lawyer's firm, partner, or associate that may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons. Continuation of the deceased partner's share to her estate falls within the exception. The exception accommodates legitimate succession planning without permitting nonlawyer ownership of an operating law firm.

**59. A** — Rule 2.7 of the Code of Judicial Conduct provides that a judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law. The rule embodies the principle that judicial workload and case assignment are not subject to personal preference recusal. Workload-based recusal is not within the categories of valid disqualification grounds.

**60. B** — Rule 3.7 of the Code of Judicial Conduct provides that a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by educational, religious, charitable, fraternal, or civic organizations not conducted for profit, subject to the limitation that the activities must not interfere with the judge's judicial duties or undermine the judge's independence, integrity, or impartiality. Active board membership in an organization regularly taking positions on matters that may come before the court raises serious concerns under those limitations. The rule requires case-specific evaluation of the activity's effects on judicial role.