

PRACTICE EXAM 8 : MPRE SIMULATION

(60 QUESTIONS)

Time Allotted: 2 hours

Format: Each question presents an Assertion and a Reason. Evaluate (1) whether each statement is true, and (2) whether the Reason correctly explains the Assertion. Select the answer that matches your evaluation.

Answer key (applies to every question):

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false (regardless of whether the Reason is true)

1.

Assertion: A lawyer who knowingly assists a judge in conduct that violates the rules of judicial conduct is subject to discipline.

Reason: Rule 8.4(f) expressly prohibits a lawyer from knowingly assisting a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

2.

Assertion: A lawyer who is discharged by her client before completing the engagement is entitled to retain all advance fees regardless of work performed.

Reason: Clients can discharge their lawyers at any time under Rule 1.16(a)(3).

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

3.

Assertion: Two lawyers from the same firm may not simultaneously represent both spouses in a contested divorce, absent informed consent.

Reason: A lawyer must maintain client confidentiality under Rule 1.6.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

4.

Assertion: A lawyer who learns during trial that a witness she called gave false testimony on a material point must take reasonable remedial measures, including disclosure to the tribunal if necessary.

Reason: Rule 1.6 confidentiality always yields to the lawyer's general duty to ensure truthful testimony in every context.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

5.

Assertion: The attorney-client privilege survives the client's death.

Reason: The privilege belongs to the client and passes to the personal representative of the client's estate, who may assert or waive it on the client's behalf.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

6.

Assertion: A lawyer who lacks experience in a particular field of law may never undertake representation in that field, regardless of circumstances.

Reason: Rule 1.1 requires legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

7.

Assertion: A lawyer may unilaterally raise her hourly rate mid-engagement without obtaining the client's consent, as long as she notifies the client in writing.

Reason: Rule 1.5(b) requires fee modifications to be communicated in writing.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

8.

Assertion: A lawyer may, with the informed consent of both clients confirmed in writing, sue a current client on behalf of another current client in a wholly unrelated matter.

Reason: Rule 1.7(b)(3) specifically permits one current client to assert claims against another current client in the same litigation as long as informed consent is obtained.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

9.

Assertion: A lawyer representing a plaintiff may contact a former employee of the defendant corporation directly without obtaining consent from the corporation's counsel.

Reason: Rule 4.2 Comment 7 specifically excludes former employees from the no-contact rule's coverage, though the lawyer must avoid eliciting privileged information.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

10.

Assertion: A lawyer may not knowingly make a false statement of fact or law to a tribunal.

Reason: Rule 1.1 requires lawyers to maintain legal knowledge and skill reasonably necessary for the representation.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false

D. The Assertion is false

11.

Assertion: A lawyer must report another lawyer's misconduct that raises a substantial question about the other lawyer's honesty.

Reason: Lawyers have an obligation to engage in pro bono legal services under Rule 6.1.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

C. The Assertion is true, but the Reason is false

D. The Assertion is false

12.

Assertion: A lawyer may disclose confidential client information to prevent the client from inflicting reasonably certain death or substantial bodily harm on a third party.

Reason: The attorney-client privilege does not apply to any communications relating to physical harm, regardless of when or whether the harm has been inflicted.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

C. The Assertion is true, but the Reason is false

D. The Assertion is false

13.

Assertion: A lawyer who represents an organization owes her primary duty of loyalty to the organization itself, not to its individual constituents.

Reason: Rule 1.6 protects confidential client information indefinitely.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

14.

Assertion: A prosecutor may file criminal charges against a defendant without probable cause if the prosecutor subjectively believes the defendant is guilty.

Reason: Rule 3.8(a) requires probable cause for any criminal charge brought by a prosecutor.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

15.

Assertion: A contingent fee agreement must be in a writing signed by the client.

Reason: Rule 1.5(c) specifically requires contingent fee agreements to be in a writing signed by the client, stating the method by which the fee will be determined and any deductions to be taken from the recovery.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

16.

Assertion: A lawyer's repeated procrastination on a client matter does not violate the diligence requirement of Rule 1.3 as long as no specific deadline is actually missed.

Reason: Rule 1.3 Comment 3 expressly identifies procrastination as a paradigm violation of the diligence duty.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

17.

Assertion: A lawyer may include accurate, non-misleading testimonials from former clients on her website.

Reason: Rule 7.1 categorically prohibits all client testimonials in lawyer advertising and communications.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

18.

Assertion: A judge must disqualify herself in any proceeding in which her impartiality might reasonably be questioned.

Reason: Rule 2.11(A) of the Model Code of Judicial Conduct requires disqualification whenever the judge's impartiality might reasonably be questioned, regardless of whether any specific enumerated ground applies.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

19.

Assertion: A lawyer must disclose to the tribunal legal authority in the controlling jurisdiction that is directly adverse to the client's position and not disclosed by opposing counsel.

Reason: The adversarial system depends on each party advocating zealously for its own position.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

20.

Assertion: A lawyer must hold client funds in a trust account separate from her own funds.

Reason: Rule 1.15(a) permits lawyers to commingle client funds with their own funds as long as careful ledger records are maintained.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

21.

Assertion: A lawyer disqualified under Rule 1.9 from representing a new client against a former client also disqualifies all other lawyers in her firm under Rule 1.10(a).

Reason: Imputation under Rule 1.10 is automatic and cannot be cured through any screening or notice procedure.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

22.

Assertion: A lawyer who reasonably believes she cannot competently complete a matter may continue the engagement as long as the client has not yet complained.

Reason: Rule 1.16(a)(2) requires mandatory withdrawal when the lawyer's mental or physical condition materially impairs the representation.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

23.

Assertion: A lawyer's duty of confidentiality ends when the client-lawyer relationship is terminated, allowing the lawyer to discuss former-client matters freely.

Reason: Rule 1.6 expressly limits the duty of confidentiality to the period during active representation.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

24.

Assertion: A lawyer may not allude in opening statement to evidence that the lawyer knows the court has excluded.

Reason: Rule 3.4(e) prohibits a lawyer from alluding in trial to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

25.

Assertion: A lawyer may not prepare an instrument that gives the lawyer a substantial gift from a non-relative client.

Reason: Rule 1.8(c) prohibits a lawyer from accepting any gift from a non-relative client regardless of value or circumstances.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

26.

Assertion: A lawyer who serves as a mediator may freely represent one of the mediation parties in subsequent litigation arising from the same dispute, since the mediation produced no resolution.

Reason: Rule 1.12(a) makes the prohibition on subsequent representation contingent on whether the prior neutral role produced a substantive result.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

27.

Assertion: A lawyer's website may state that the lawyer has been certified as a specialist in family law if she has indeed been certified by an organization accredited by the ABA or approved by the appropriate state authority.

Reason: Rule 7.1 prohibits all communications that create unjustified expectations about the results a lawyer can achieve.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false

D. The Assertion is false

28.

Assertion: A lawyer admitted only in State A may not establish a permanent office in State B for the practice of law without obtaining State B admission.

Reason: Rule 5.5(b) prohibits a lawyer who is not admitted in a jurisdiction from establishing an office or other systematic and continuous presence for the practice of law in that jurisdiction.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

C. The Assertion is true, but the Reason is false

D. The Assertion is false

29.

Assertion: A lawyer who knowingly receives an inadvertently sent privileged document from opposing counsel must immediately destroy the document without reviewing it.

Reason: Rule 4.4(b) imposes destruction obligations on lawyers who receive inadvertently transmitted documents.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

C. The Assertion is true, but the Reason is false

D. The Assertion is false

30.

Assertion: A lawyer must promptly inform her client of any decision or circumstance with respect to which the client's informed consent is required.

Reason: Lawyers must keep their clients informed because client trust is essential to the lawyer-client relationship.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

31.

Assertion: A lawyer may communicate the basis or rate of her fee orally rather than in writing when undertaking representation of a new client on a non-contingent matter.

Reason: Rule 1.5(b) explicitly states that all fee agreements with new clients must always be reduced to writing in a signed engagement letter.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

32.

Assertion: A lawyer's joint representation of two co-defendants in a criminal case creates a presumed conflict that requires informed consent from each defendant.

Reason: Rule 1.7(a)(2) recognizes that joint representation of co-defendants creates a significant risk that the representation of one or both clients will be materially limited by the lawyer's responsibilities to the other.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

33.

Assertion: A lawyer must promptly notify a client of the receipt of funds in which the client has an interest.

Reason: Trust account compliance is a frequent subject of routine disciplinary audits in most jurisdictions.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

34.

Assertion: A lawyer may counsel her client to give intentionally vague or evasive answers in discovery responses to minimize the impact of unfavorable testimony.

Reason: Rule 3.4 expressly permits litigation counsel to coach clients on the appropriate level of detail in discovery responses.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

35.

Assertion: A judicial candidate may permit a campaign committee to solicit and accept campaign contributions on her behalf.

Reason: Rule 3.7 of the Model Code permits a judge to engage in extrajudicial activities except those that interfere with the proper performance of judicial duties.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

36.

Assertion: A lawyer may represent both buyer and seller in a real estate transaction if both parties give informed consent confirmed in writing and the lawyer reasonably believes she can provide competent and diligent representation to each.

Reason: Rule 1.7(b)(3) categorically prohibits representing parties on opposing sides of any transaction, regardless of consent.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

37.

Assertion: A lawyer may not accept a settlement on behalf of a client without the client's specific authorization for the particular offer.

Reason: Rule 1.2(a) gives the lawyer ultimate authority over settlement decisions in civil cases.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

38.

Assertion: A lawyer who lacks experience in a particular area of law may undertake representation by associating with experienced co-counsel, provided the client gives informed consent.

Reason: Rule 1.1 Comment 6 expressly permits a lawyer to acquire necessary competence by associating with experienced counsel, subject to client consent.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false

D. The Assertion is false

39.

Assertion: A lawyer may not represent a client in a matter substantially related to one in which the lawyer previously represented a former client whose interests are materially adverse, absent informed consent confirmed in writing.

Reason: Rule 1.9(a) prohibits a lawyer from representing another person in the same or substantially related matter when the new client's interests are materially adverse to those of the former client, absent informed consent confirmed in writing.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

40.

Assertion: A lawyer may not engage in conduct intended to disrupt a tribunal.

Reason: Lawyers should treat opposing counsel with civility and professional courtesy at all times.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

41.

Assertion: A lawyer may never describe her practice as "concentrating" in a particular field of law without first obtaining ABA-accredited specialist certification.

Reason: Rule 7.4 limits all specialty-related claims to lawyers who have been certified by accredited certifying organizations.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

42.

Assertion: A lawyer's representation must conform to the scope and objectives the client has set.

Reason: Rule 1.2(a) requires the lawyer to abide by the client's decisions concerning the objectives of the representation and to consult with the client as to the means by which they are to be pursued.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

43.

Assertion: A lawyer's pro bono service expectation under Rule 6.1 is aspirational and not enforceable through the disciplinary process.

Reason: Rule 6.1 expresses an aspiration but is expressly hortatory and explicitly disclaims any enforcement consequence through discipline.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

44.

Assertion: A lawyer for an organization owes her primary duty of loyalty to the organization itself, not to individual constituents.

Reason: Rule 1.13(a) requires the lawyer to treat each constituent of the organization — including officers, directors, and employees — as an additional client of the lawyer.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

45.

Assertion: A lawyer may disclose confidential client information to the extent reasonably necessary to comply with a court order after exhausting reasonable challenges to the order.

Reason: Rule 1.6(b)(6) permits disclosure to comply with other law or a court order, with the lawyer's challenge obligation governed by a reasonableness standard.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

46.

Assertion: A lawyer who is publicly disciplined in one state is automatically subject to identical discipline in every other state where she is admitted, without any further proceedings.

Reason: Reciprocal discipline doctrine creates strict automatic application of one jurisdiction's sanctions across all other jurisdictions of admission.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

47.

Assertion: A lawyer must not assist her client to commit perjury at trial.

Reason: Rule 3.3(a)(3) prohibits a lawyer from offering evidence the lawyer knows to be false and requires reasonable remedial measures upon learning that material evidence was false.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

48.

Assertion: A lawyer who jointly represents two clients in a transaction may not maintain confidentiality between them as to information relating to the joint representation.

Reason: The attorney-client privilege between joint clients is automatically waived as soon as the joint representation commences.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

49.

Assertion: A lawyer must communicate to her client every settlement offer received from the opposing party.

Reason: Rule 1.4(a) makes the communication of settlement offers optional, depending on the lawyer's professional view of their adequacy.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false

D. The Assertion is false

50.

Assertion: A lawyer who fails to file a complaint within the statute of limitations may be liable to the client for legal malpractice.

Reason: Lawyers must comply with the Rules of Professional Conduct enacted by the state bar.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

C. The Assertion is true, but the Reason is false

D. The Assertion is false

51.

Assertion: A judge must disqualify herself when she has a personal financial interest in the subject matter of the proceeding.

Reason: Judges should perform their duties impartially under Canon 1 of the Model Code of Judicial Conduct.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion

C. The Assertion is true, but the Reason is false

D. The Assertion is false

52.

Assertion: A lawyer may freely volunteer to opposing counsel information that is materially harmful to the lawyer's own client during settlement negotiations.

Reason: Rule 4.1 imposes an affirmative duty on lawyers to volunteer adverse information whenever opposing counsel inquires.

A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion

- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

53.

Assertion: A lawyer may use client funds in her trust account for short-term personal needs as long as she replenishes the funds before the client requests a distribution.

Reason: Rule 1.15 imposes only minor administrative requirements that do not prohibit short-term borrowing from client funds.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

54.

Assertion: A lawyer may not state a personal opinion as to the credibility of a witness during closing argument.

Reason: Lawyers should maintain dignified courtroom conduct to preserve public respect for the legal system.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

55.

Assertion: A lawyer may not knowingly make a false statement about a judge's qualifications or integrity.

Reason: Rule 8.2(a) prohibits statements about judges that the lawyer knows to be false or makes with reckless disregard for truth or falsity.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

56.

Assertion: A lawyer may disclose confidential client information for any purpose related to the lawyer's broader business interests, including marketing the firm.

Reason: Rule 1.6 permits disclosure when the lawyer determines disclosure is in the firm's overall economic interest.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

57.

Assertion: A lawyer may prospectively limit her malpractice liability to a client if the client is independently represented in making the agreement.

Reason: A lawyer may settle a malpractice claim with a client who is represented by independent counsel after providing appropriate disclosures.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

58.

Assertion: A prosecutor must make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused.

Reason: Rule 3.8(d) requires the prosecutor to disclose only evidence that the prosecutor personally believes is credible.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

59.

Assertion: A lawyer may interview a former employee of a represented organization about the subject of the litigation without obtaining the organization's counsel's consent.

Reason: Former employees, unlike current employees, are categorically excluded from Rule 4.2's no-contact rule by the express text of Rule 4.2 itself.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

60.

Assertion: A managing partner must make reasonable efforts to ensure that lawyers in the firm conform to the Rules of Professional Conduct.

Reason: Most law firms have implemented detailed compliance manuals to address professional conduct issues.

- A. Both Assertion and Reason are true, and the Reason correctly explains the Assertion
- B. Both Assertion and Reason are true, but the Reason does NOT correctly explain the Assertion
- C. The Assertion is true, but the Reason is false
- D. The Assertion is false

Practice Exam 8: Full Answer Key & Explanations

- 1. A** — The Assertion correctly states Rule 8.4(f)'s prohibition on knowingly assisting a judge in violating judicial conduct rules, and the Reason quotes the rule that creates the duty. Because the Reason is the direct doctrinal source of the prohibition stated in the Assertion, it correctly explains the Assertion. This is the textbook A pattern: rule statement supported by direct rule citation.
- 2. D** — A discharged lawyer must refund any unearned portion of an advance fee under Rule 1.16(d), so the Assertion's claim that the lawyer may retain "all advance fees regardless of work performed" is false. The discharge right under Rule 1.16(a)(3) is real, but the Assertion misstates the consequence; the Assertion fails on its own terms regardless of the Reason's truth.
- 3. B** — Both statements are true: same-firm dual representation in a contested divorce is barred under Rules 1.7(a)(1) and 1.10(a), and confidentiality under Rule 1.6 is required throughout. The Reason about confidentiality does not, however, explain the prohibition — the actual doctrinal ground is direct adversity under Rule 1.7, not the separate duty to safeguard information.
- 4. C** — The Assertion correctly states Rule 3.3(a)(3)'s remedial-measures duty when material false testimony has been offered, including disclosure to the tribunal if necessary. The Reason is false because Rule 1.6 does not "always" yield to truthful-testimony concerns; it yields only in the narrow Rule 3.3 tribunal context, not as a general principle.
- 5. A** — The attorney-client privilege survives the client's death under *Swidler & Berlin v. United States*, and it passes to the personal representative of the client's estate, who may assert or waive it. The Reason explains exactly why the Assertion is true: because the privilege is the client's and survives through the estate's representative.
- 6. D** — The Assertion is false. Rule 1.1 Comment 4 expressly permits a lawyer to acquire competence in a new field through necessary study or association with experienced counsel, so the categorical "may never undertake" framing does not reflect the rule. The Reason's accurate statement of the basic competence requirement cannot rescue a false Assertion.
- 7. D** — The Assertion is false because a unilateral mid-engagement fee increase requires the client's informed consent, not merely written notice. Rule 1.5(b) governs initial fee communication, not unilateral modifications, and treating any material change as effective on notice alone would conflict with the lawyer's fiduciary duties.
- 8. C** — The Assertion is true: Rule 1.7(b) permits direct adversity between two current clients in unrelated matters with informed consent confirmed in writing. The Reason is false because Rule 1.7(b)(3) forbids one client from asserting a claim against another in the SAME litigation — same-litigation adversity between current clients is nonconsentable, the opposite of what the Reason claims.
- 9. A** — Comment 7 to Rule 4.2 confirms that former employees fall outside the no-contact rule, though the contacting lawyer must avoid eliciting privileged information. The Reason states this Comment 7 carveout accurately and directly explains why the Assertion is true.

10. B — Both statements are true: Rule 3.3(a)(1) prohibits knowingly false statements of fact or law to a tribunal, and Rule 1.1 requires legal knowledge and skill. The competence rule, however, has no doctrinal bearing on the candor rule; the two duties operate independently, so the Reason does not explain the Assertion.

11. B — Both statements are true: Rule 8.3(a) requires reporting misconduct that raises a substantial question about another lawyer's honesty, and Rule 6.1 sets out an aspirational pro bono goal. The pro bono duty has no doctrinal connection to the reporting duty, so the Reason does not explain the Assertion.

12. C — The Assertion correctly states Rule 1.6(b)(1)'s permissive disclosure exception to prevent reasonably certain death or substantial bodily harm. The Reason is false because the duty of confidentiality under Rule 1.6 and the evidentiary attorney-client privilege are distinct doctrines, and the privilege is not categorically inapplicable to communications about physical harm.

13. B — Both statements are true: Rule 1.13(a) provides that the lawyer represents the entity, not its constituents, and Rule 1.6 protects confidential information indefinitely. The confidentiality rule does not, however, explain why loyalty runs to the entity; the entity-as-client doctrine flows from organizational legal personality, not from the confidentiality duty.

14. D — The Assertion is false. Rule 3.8(a) imposes an objective probable-cause requirement that cannot be replaced by the prosecutor's subjective belief in guilt, and charging without probable cause is independent professional misconduct. The Reason correctly states the rule, but the Assertion's claim that subjective belief substitutes for probable cause is wrong on its face.

15. A — Rule 1.5(c) requires that any contingent fee agreement be in a writing signed by the client and state the method for calculating the fee, including litigation expenses and deductions from any recovery. The Reason quotes this requirement directly, making it the precise doctrinal explanation for why the Assertion is true.

16. D — The Assertion is false. Comment 3 to Rule 1.3 expressly identifies procrastination as a paradigm violation regardless of whether any specific deadline is missed, because the diligence duty also protects client confidence and prevents neglect from ripening into more serious harm. The Reason's accurate citation cannot save the false Assertion.

17. C — The Assertion is true: testimonials are permitted under Rule 7.1 if they are truthful and not misleading. The Reason is false because Rule 7.1 imposes no categorical ban on testimonials — only false or misleading communications are barred, and accurate testimonials with proper context are permissible.

18. A — Rule 2.11(A) of the Model Code of Judicial Conduct requires disqualification in any proceeding where the judge's impartiality might reasonably be questioned, and this clause is freestanding — it operates independently of the listed enumerated grounds. The Reason states this freestanding standard and directly explains why the Assertion is true.

19. B — Both statements are true: Rule 3.3(a)(2) requires disclosure of directly adverse controlling authority not disclosed by opposing counsel, and the adversarial system does generally rely on each party

advocating its own position. The Reason is in fact in tension with the Assertion — the disclosure duty is a deliberate departure from pure adversarial advocacy, not a consequence of it.

20. C — The Assertion correctly states the segregation requirement under Rule 1.15(a). The Reason is false because Rule 1.15(a) categorically prohibits commingling — it does not permit commingling even with careful records; the recordkeeping requirement supports proper segregation, it does not legitimize mixed accounts.

21. C — The Assertion accurately reflects Rule 1.10(a)'s imputation of Rule 1.9 conflicts firm-wide. The Reason is false because Rule 1.10(a)(2) expressly permits screening with timely notice for conflicts brought into a firm by a migratory lawyer — imputation is not unconditionally automatic, and the screening procedure is a recognized cure in many jurisdictions.

22. D — The Assertion is false. A lawyer who reasonably believes she cannot competently complete a matter must withdraw or take other appropriate action under Rule 1.16(a)(2) and Rule 1.1, regardless of whether the client has complained. The Reason correctly states the mandatory withdrawal rule, but the Assertion's premise that the absence of complaint allows continuation is wrong.

23. D — The Assertion is false. The duty of confidentiality under Rule 1.6, restated in Rule 1.9(c) for former clients, survives termination of the engagement and continues indefinitely. The Reason is also false because Rule 1.6 does not limit confidentiality to the period of active representation; the Assertion fails on its own terms.

24. A — Rule 3.4(e) prohibits alluding in trial to any matter the lawyer does not reasonably believe will be supported by admissible evidence, which necessarily covers evidence the lawyer knows the court has excluded. The Reason states this rule directly and provides the precise doctrinal explanation for why the Assertion is true.

25. C — The Assertion correctly states Rule 1.8(c)'s prohibition on a lawyer preparing an instrument that gives the lawyer a substantial gift from a non-relative client. The Reason is false because Rule 1.8(c) does not prohibit the lawyer from accepting a gift — only from preparing the instrument creating one — so the rule's scope is narrower than the Reason claims.

26. D — The Assertion is false. Rule 1.12(a) bars a former third-party neutral from representing anyone in connection with the matter on which she served as a neutral, absent informed consent confirmed in writing from all parties — regardless of whether the prior proceeding produced a resolution. The Reason is also false; the rule contains no outcome-contingent exception.

27. B — Both statements are true: Rule 7.4 allows lawyers to state that they have been certified as specialists by ABA-accredited or state-approved organizations, and Rule 7.1 separately prohibits communications that create unjustified expectations. The unjustified-expectations rule does not explain the certification rule, which is governed by a distinct doctrinal framework concerning verifiability of credentialing.

28. A — Rule 5.5(b) directly prohibits a lawyer not admitted in a jurisdiction from establishing a permanent office or systematic and continuous presence for the practice of law in that jurisdiction. The

Reason quotes the rule that creates the prohibition, providing the direct doctrinal explanation for why the Assertion is true.

29. D — The Assertion is false. Rule 4.4(b) requires only that the receiving lawyer promptly notify the sender of an inadvertently transmitted privileged document — not that the lawyer destroy it without review. The Reason is also false because the rule imposes no destruction obligation; the Assertion fails on its own terms.

30. B — Both statements are true: Rule 1.4(a)(1) requires prompt communication of decisions requiring informed consent, and client trust is genuinely important to the lawyer-client relationship. The trust rationale is a true general principle, but it does not specifically explain the technical Rule 1.4(a)(1) duty, which has its own structural rationale tied to the client's decision-making authority.

31. C — The Assertion is true: Rule 1.5(b) provides that fees be communicated to the client "preferably in writing," so oral communication remains permissible for non-contingent matters. The Reason is false because Rule 1.5(b) does not require a signed writing for all new-client fee arrangements — the writing preference is hortatory, not mandatory under the Model Rules.

32. A — Rule 1.7(a)(2) treats joint representation of co-defendants as a textbook concurrent conflict because of the material-limitation risk between defenses, and informed consent confirmed in writing from each defendant is required to proceed. The Reason states the doctrinal basis for the conflict and directly explains why the Assertion is true.

33. B — Both statements are true: Rule 1.15(d) requires prompt notification when the lawyer receives funds in which a client has an interest, and routine trust account audits do occur in many jurisdictions. The audit frequency is a true observation but is not the doctrinal basis for the notification duty, which exists independently of any audit risk.

34. D — The Assertion is false. Rule 3.4 prohibits a lawyer from counseling a client to engage in evasive or obstructive conduct in discovery, including coaching vague answers designed to obscure unfavorable testimony. The Reason is also false because Rule 3.4 expressly forbids — not permits — such counseling, so the Assertion fails regardless.

35. B — Both statements are true: Rule 4.1(B) of the Model Code of Judicial Conduct permits judicial candidates to operate through campaign committees, and Rule 3.7 separately governs extrajudicial activities. The extrajudicial-activities provision does not, however, explain the campaign-committee mechanism, which exists as a structural compromise between political-speech rights and the prohibition on personal solicitation.

36. C — The Assertion is true: joint buyer-seller representation in a real estate transaction is consentable under Rule 1.7(b) if the lawyer reasonably believes she can competently represent each and both give informed written consent. The Reason is false because Rule 1.7(b)(3) prohibits same-litigation adversity, not transactional joint representation, which remains a consentable conflict.

37. C — The Assertion is true: under Rule 1.2(a) the settlement decision belongs to the client and requires the client's specific authorization for the particular offer. The Reason is false because Rule 1.2(a) gives

the client — not the lawyer — ultimate authority over settlement, so the Reason inverts the rule's actual allocation of decision-making.

38. A — Comment 6 to Rule 1.1 expressly permits a lawyer to acquire competence by associating with a lawyer of established competence in the field, subject to client consent. The Reason quotes this comment directly and provides the precise doctrinal basis for the Assertion's truth.

39. A — Rule 1.9(a) prohibits successive representation in a substantially related matter where the new client's interests are materially adverse to those of the former client, absent informed consent confirmed in writing. The Reason restates the rule almost verbatim, providing the direct doctrinal explanation for the Assertion.

40. B — Both statements are true: Rule 3.5(d) prohibits conduct intended to disrupt a tribunal, and civility toward opposing counsel is a recognized professional norm. The civility principle does not, however, explain the tribunal-disruption rule, which protects the court's institutional function rather than interpersonal courtesy.

41. D — The Assertion is false. Rule 7.4 (and the 2018-amended Rule 7.1) permits lawyers to describe their practice as "concentrated in" or "limited to" a field without certification — only formal "certified specialist" claims require certification by an accredited organization. The Reason's overbroad framing of Rule 7.4 cannot save the false Assertion.

42. A — Rule 1.2(a) requires the lawyer to abide by the client's decisions concerning the objectives of representation and to consult with the client about the means by which they are to be pursued. The Reason quotes the rule that allocates scope-and-objectives authority to the client and directly explains why the Assertion is true.

43. A — Rule 6.1 is expressly framed as aspirational and is not enforceable through the disciplinary process — it sets out a professional responsibility goal rather than a mandatory rule subject to sanction. The Reason captures the rule's hortatory character and directly explains why pro bono service is non-disciplinable.

44. C — The Assertion is true: Rule 1.13(a) provides that the lawyer represents the organization as a separate entity. The Reason is false because Rule 1.13(a) does not treat constituents as additional clients — constituents are NOT the lawyer's clients absent a separate Rule 1.13(g) joint representation arrangement; the rule's text is the opposite of what the Reason claims.

45. A — Rule 1.6(b)(6) permits disclosure to comply with a court order, and the lawyer is expected to exhaust reasonable challenges before complying — a reasonableness standard rather than a strict-exhaustion requirement. The Reason states this exception accurately and provides the direct doctrinal basis for the Assertion.

46. D — The Assertion is false. Reciprocal discipline creates a presumption of comparable sanctions across jurisdictions, but the affected lawyer can challenge the imposition on recognized grounds — lack of due process, no jurisdictional violation, infirmity of proof, or grave injustice. The Reason's "strict automatic" framing is also false; the doctrine is rebuttable on multiple grounds.

47. A — Rule 3.3(a)(3) prohibits a lawyer from offering evidence she knows to be false and requires reasonable remedial measures if she later learns material evidence was false, which together bar assisting client perjury. The Reason states the rule that creates the prohibition and directly explains why the Assertion is true.

48. C — The Assertion is true: joint clients in a transaction cannot expect confidentiality from each other regarding the joint matter — Comment 31 to Rule 1.7 makes this explicit. The Reason is false because the privilege is not "waived" between joint clients; rather, the joint-client doctrine simply holds that there is no expectation of confidentiality among them as to the joint matter, while the privilege still protects against third parties.

49. C — The Assertion is true: Rule 1.4(a)(1) and Comment 2 require the lawyer to promptly communicate settlement offers to the client. The Reason is false because the communication duty is mandatory, not optional based on the lawyer's view of an offer's adequacy — the client, not the lawyer, evaluates settlement acceptability.

50. B — Both statements are true: failing to file within the statute of limitations is a classic predicate for malpractice liability, and lawyers must comply with the Rules of Professional Conduct. Rule compliance is, however, a separate inquiry from malpractice exposure — civil liability is governed by tort principles of duty, breach, causation, and damages — so the Reason does not explain the Assertion.

51. B — Both statements are true: Rule 2.11(A)(3) of the Model Code requires disqualification when the judge has a personal economic interest, and Canon 1 sets out the foundational impartiality principle. Canon 1 is too broad to specifically explain the targeted financial-interest disqualification rule, which has its own discrete textual basis in Rule 2.11(A)(3).

52. D — The Assertion is false. Rule 4.1 prohibits false statements of material fact or law and may require disclosure to avoid assisting client crime or fraud, but it does not impose any affirmative duty to volunteer information harmful to one's own client. The Reason is also false because Rule 4.1 imposes no general duty to volunteer adverse information upon inquiry from opposing counsel.

53. D — The Assertion is false. Using client trust funds for personal needs — even temporarily and even with intent to replenish — is misappropriation under Rule 1.15 and a paradigmatic disciplinary offense leading to disbarment in most jurisdictions. The Reason is also false because Rule 1.15 imposes strict — not minor — requirements on segregation and handling of client funds.

54. B — Both statements are true: Rule 3.4(e) prohibits lawyers from stating personal opinions on witness credibility during argument, and dignified courtroom conduct is a recognized professional value. The dignity rationale is too general, however; the specific prohibition exists to prevent the lawyer from substituting personal credibility for evidence, not merely to maintain decorum.

55. A — Rule 8.2(a) prohibits statements about the qualifications or integrity of judges that the lawyer knows to be false or makes with reckless disregard for truth or falsity. The Reason restates the rule that creates the prohibition and provides the direct doctrinal explanation for the Assertion.

56. D — The Assertion is false. Rule 1.6 permits disclosure only within narrow enumerated exceptions — none of which include marketing or general business purposes — and disclosure for firm economic interest is paradigmatically prohibited. The Reason is also false because Rule 1.6 contains no firm-economic-interest exception.

57. B — Both statements are true: Rule 1.8(h)(1) permits prospective limitation of malpractice liability if the client is independently represented in making the agreement, and Rule 1.8(h)(2) separately permits settling existing malpractice claims with proper disclosures. The settlement provision and the prospective-limitation provision are distinct rules addressing different problems, so the Reason does not explain the Assertion.

58. C — The Assertion is true: Rule 3.8(d) requires the prosecutor to make timely disclosure of evidence or information tending to negate the guilt of the accused or mitigate the offense. The Reason is false because Rule 3.8(d) does not condition disclosure on the prosecutor's personal belief in credibility — credibility assessments are for the jury, and the disclosure obligation is objective.

59. C — The Assertion is true: Comment 7 to Rule 4.2 permits direct contact with former employees of a represented organization, subject to limits on eliciting privileged information. The Reason is false because the exclusion is not in Rule 4.2's text itself but in the comments and corresponding case law, and the exclusion is not categorical — privileged-information limits and other constraints apply.

60. B — Both statements are true: Rule 5.1(a) imposes a duty on managing partners to make reasonable efforts to ensure firm-wide rule compliance, and many firms do indeed maintain compliance manuals. The existence of compliance manuals does not, however, explain the supervisory duty; the duty exists independently of any specific compliance mechanism a firm may have adopted.