

MCLE Self Study Questions

By Gregg Meath

To receive one (1) hour of MCLE credit, please answer the questions below. Each question has only one answer. Mail your answer form to San Joaquin County Bar Association, 6 S. El Dorado Street, Suite 315, Stockton, CA 95202, with a \$25.00 processing fee. Please make checks payable to SJCBA. The correct answers and an MCLE certificate will be mailed to you.

1. The new rules on limited scope of representation allow the client to authorize the attorney to take specific actions on the client's behalf without taking on general retention.
 - a. True b. False

2. A lawyer shall abide by a client's decisions concerning the objectives or representation but need not consult with the client as to the means by which the objectives are to be pursued.
 - a. True b. False

3. In addition to requiring lawyers to keep the client reasonably informed about significant developments, the lawyer must also:
 - a. Promptly inform the client of any decision or circumstance requiring either disclosure or the client's informed consent.
 - b. Reasonably consult with the client about the client's objectives and the manner of achieving them.
 - c. Advise the client of relevant limitations on the lawyer's conduct, such as those methods of assistance requested by the client which are prohibited by the rules.
 - d. (a) and (b) above.
 - e. All of the above.

4. Failure to comply with the rules may result in discipline, including being disbarred from the practice of law, and failure to comply in a litigation matter may result in disqualification from a matter.
 - a. True b. False

5. "Earned on receipt or "non-refundable" retainers are permitted for "a payment intended by the client as an advance payment for some or all of the services that the lawyer is expected to perform on the client's behalf."
 - a. True b. False

6. For matters where the attorney takes an "earned on receipt" or "non-refundable" the fee, must be a true retainer (i.e., to ensure the lawyer's availability only), with client agreement, after disclosure, that a true retainer means the client will not be entitled to a refund on all or part of the fee charged.
 - a. True b. False

7. Previous Rule 2-200 did not require that the agreement between the lawyers be in writing, did not require identification of the parties to the division, and permitted client consent at the time of the fee split (which is often times at the end of a case when all the work has been done).
 - a. True b. False

8. The new rules retain the old Rule 3-310 “checklist” approach for current client conflicts.
a. True b. False
9. Given the scope and extent of the changes that have been made to the Rules of Professional Conduct, every practicing California Lawyer should read the new rules.
a. True b. False
10. California attorneys are allowed to engage in a sexual relationship with a current client, so long as:
a. The relationship pre-existed the attorney/client relationship. b. The attorney and client are married.
c. There is no quid pro quo arrangement, coercion, or incompetence resulting from sex with clients.
d. (a) and (b) above.
e. All of the above.
11. Under the new rules if a lawyer received “a payment intended by the client as an advance payment for some or all of the services that the lawyer is expected to perform on the client’s behalf” and deposited into the firm’s operating account before the effective date of the new rules, those funds are “grandfathered,” and would not have to be identified, traced and deposited into a trust account.
a. True b. False
12. Lawyers and law firms based outside of California or that otherwise maintain their banking relationships outside of the state will be required to establish new banking relationships within the state, because the new rules require that the bank account into which funds are deposited be “maintained in the State of California.”
a. True b. False
13. Attorneys owe a duty of confidentiality as to confidential information received from their clients, but not a prospective client that never hired the attorney.
a. True b. False
14. Rule 3.2 sets forth that an attorney may use means that have no substantial purpose other than to delay proceedings or cause needless expense, so long as the attorney’s client is not prejudiced.
a. True b. False
15. It is permissible for an attorney, speaking on behalf of a client to a third party, to state or imply that he or she is disinterested even if the attorney believes that the third party believes the attorney is disinterested. This is because the attorney owes duties only to his or her client.
a. True b. False
16. A subordinate lawyer has an independent duty to comply with the Rules of Professional Responsibility and cannot simply follow the instruction of his or her superior.
a. True b. False
17. New Rule 1.5.1 requires which of the following to create valid agreements between lawyers to divide fees:
a. Must be in writing.
b. Must be consented to by the client, in writing.

- c. Full written disclosure to the client of the fact that a fee division will be made.
- d. Must identify to the client the lawyers/law firms participating in the division.
- e. Must disclose to the client the terms of the division.
- f. All of the above, except (a).
- g. All of the above.

18. A lawyer will be vicariously responsible for another lawyer's violation if (1) the lawyer orders or, with knowledge of the relevant facts and of the specific conduct, ratifies the conduct involved; or (2) the lawyer possesses managerial authority or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

- a. True b. False

19. If a lawyer learns of non-lawyer staff violating the Rules of Professional Conduct, at a time when its consequences can be avoided or mitigated, but fails to take reasonable remedial action, then the managing lawyer is responsible for violations committed by the lawyer's staff, regardless of whether the lawyer was aware of the misconduct when it occurred.

- a. True b. False

20. The new rules prohibit unlawful discrimination, harassment and retaliation in connection with the representation of a client, the termination or refusal to accept the representation of any client, and law firm operations, and expand the protected categories to include gender identity and gender expression.

- a. True b. False