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Chapter 2 Ethics and Professional Responsibility

TRUE/FALSE. Write 'T' if the statement is true and 'F' if the statement is false.

1) The legal assistant may prepare a simple deed for a client with no contact between the client and the attorney or the legal assistant and the attorney. 1) _____

2) Legal assistants may be disciplined by the American Bar Association under its Model Rules of Professional Conduct. 2) _____

3) If a client discharges your employer, you need no longer be concerned about the confidential relationship which was in effect. 3) _____

4) A legal assistant may prepare an opinion letter and sign it if, after reviewing the letter, the lawyer says it is correct and fine to mail out. 4) _____

5) A legal assistant, when contacted by a client who wishes to make a codicil to a will, may write the lawyer a memorandum of the conversation and draft a codicil for the lawyer's approval. 5) _____

6) There is no ethical violation in telling your family that a friend was in the office to see your employer so long as you do not divulge what the friend's business and information given was about. 6) _____

7) It is permissible for a legal assistant to quote the minimum fees to a prospective client with the explanation that it may run more depending on the work involved. 7) _____

8) Paralegals don't necessarily have to state to people in a law office that they are not attorneys. 8) _____

9) A conflict of interest may exist where the paralegal knows personally the opposing party in the litigation client. 9) _____

10) Regulation of the practice of law is accomplished by the federal government. 10) _____

11) An attorney could lose his/her license or have it suspended as a result of a legal assistants' act or failure to act. 11) _____

12) Legal assistants may draft interrogatories. 12) _____

13) When the firm they provide services to states there is no conflict of interest, the freelance paralegal has no obligation to check for conflicts of interest. 13) _____

14) A legal assistant who does not work under the supervision of an attorney and gives legal advice to a client may be charged under the state statutes with the unauthorized practice of law. 14) _____

15) Candor means the attorney and members of the legal team should do nothing that misleads the court with false statements of the law or facts. 15) _____

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16) A legal assistant may attend a real estate closing with a lawyer, make computations, witness the signing of documents, and keep forms in order, but always under the attorney's direction and supervision. 16) _____

17) A legal assistant may reveal a client's information about assets, liabilities, and intended gifts to members of the client's family who will receive those gifts. 17) _____

18) Representing both husband and wife in a divorce proceeding is a conflict of interest. 18) _____

19) Fairness in litigation is the obligation of the attorney and the legal team to destroy evidence that does not support their case. 19) _____

20) Having a romantic relationship with a client is a conflict of interest. 20) _____

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

21) A paralegal may do the following: 21) _____
A) Sign a letter informing the client of the time and location to be at a deposition
B) Quote a fee pursuant to the established fee schedule in the office
C) Agree to a settlement with an insurance adjuster
D) None of the above

22) A local lending agency calls and requests information regarding a lawsuit in which your firm represents the defendant. The lender is concerned that if, as plaintiff, it obtained a large judgment, your client would default on a loan with the agency. The legal assistant should: 22) _____
A) Give the lending agency their opinion of the case
B) Tell the lending agency to "roll the dice," as they will surely lose
C) Inform the lending agency that this is privileged information and cannot be divulged without the consent of the client
D) Inform the lending agency it must speak with the attorney

23) One of your firm's clients has an annoying trait: The man is old and hard of hearing and resents being corrected, no matter how wrong he is. He brings a friend with him during a visit to the office and, in front of you, tells the friend that you are one of the associate attorneys. As a legal assistant you should: 23) _____
A) Go along with it, as it's quite the compliment he has paid you
B) Quietly explain to the friend that you are a legal assistant and explain your position, even though the client cannot hear what you are saying
C) Advise your attorney of the situation and have him explain your position to the client
D) Correct him immediately even though it means some embarrassment

24) Your attorney calls from out of town and asks you to prepare a motion in a case on which you are working and further tells you to sign his name to the motion and get it filed with the court today. As the legal assistant you should respond to this request as follows: 24) _____
A) Follow the instructions since the instructions are direct from the attorney
B) Tell the attorney it is improper for you to sign his name to the motion and that an attorney must review the motion before it is duly filed
C) Prepare the motion but take it to a lawyer in another firm for review before you sign the attorney's name
D) All of the above

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25) A friend who is employed as a legal assistant by another law firm calls you to inquire if your firm has handled a recent litigation suit in the local court. There have been major changes in procedure in the court in the past three months and your friend is uncertain about drafting and filing pleadings. You have just completed your first case under the new rules. You may ethically: 25) _____

A) Provide your friend procedural information and tell your friend where to find the rules
B) Tell your friend where to find the rules
C) Provide your friend a copy of the pleadings you used
D) Provide your friend procedural information

26) With respect to a nonlawyer employed by an attorney, the attorney: 26) _____

A) Is responsible for conduct of such a person that would be a violation of the Model Code of Professional Responsibility if engaged in by a lawyer and is relieved of responsibility for misconduct of a nonlawyer assistant
B) Should make the reasonable effort to ensure that the person's conduct is compatible with the professional obligations of the lawyer and is responsible for conduct of such a person that would be a violation of the Model Code of Professional Responsibility if engaged in by a lawyer
C) Should make the reasonable effort to ensure that the person's conduct is compatible with the professional obligations of the lawyer and is relieved of responsibility for misconduct of a nonlawyer assistant
D) None of the above

27) Paralegals are bound to the following principles: 27) _____

A) A paralegal has no ethical obligations, as they are not attorneys
B) Not to speak to others about client issues
C) Confidentiality of client information and not to speak to others about client issues
D) Confidentiality of client information

28) If a coworker in your office asks you to prepare his will and you prepare most of the wills in your office for your attorney, as the legal assistant you should: 28) _____

A) Suggest that he talk to your attorney regarding the will
B) Give him forms to use to prepare his will
C) Prepare the will and supervise the execution thereof
D) Prepare the will but do not supervise the execution thereof

29) A local newspaper reporter calls to inquire whether your attorney is representing a person charged with misappropriating funds in connection with a recent charitable fund-raising project. How do you answer the question? 29) _____

A) Tell him you are not ethically permitted to give out any information about clients past or present.
B) Tell him your attorney is representing the client but that you cannot give him any information.
C) Tell him your attorney is not representing the person.
D) Tell him your attorney is representing the client but that the plan of defense has not yet been determined.

30) Which term below refers to a situation where the loyalties of the lawyer are adverse to the representation of the client? 30) _____

A) Candor to the court
B) Unauthorized practice of law
C) Conflict of interest
D) None of the above

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31) A lawyer may permit his/her legal assistant to perform services for him in his representation of a client, provided that which of the following is true? 31) _____

A) The services performed by the legal assistant do not require exercise of independent professional legal judgment, the lawyer maintains a direct relationship with the client, and the lawyer supervises the legal assistant's performance of duties.
B) The services performed by the legal assistant do not require exercise of independent professional legal judgment, the lawyer supervises the legal assistant's performance of duties, and the lawyer is not responsible for such representation.
C) The services performed by the legal assistant do not require exercise of independent professional legal judgment and the lawyer maintains a direct relationship with the client.
D) The services performed by the legal assistant do not require exercise of independent professional legal judgment and the lawyer supervises the legal assistant's performance of duties.

32) The paralegal advises that the new client is his ex-spouse. The lawyer should: 32) _____

A) Accept representation of the client after advising and obtaining consent of the client in writing and if necessary, erecting an ethical wall around the paralegal
B) Accept representation of the client after advising the client of the conflict and erecting an ethical wall around the paralegal
C) Refuse representation of the client
D) Accept representation of the client

33) A prosecutor in a criminal case is required to turn over _____ evidence that tends to prove the innocence of the accused or prove the facts of the defendant's case. 33) _____

A) Exculpatory B) Inflammatory C) Demonstrative D) Hearsay

34) You are a paralegal in a small law firm and your attorney has prepared a will for a client. The client dies and his son from out of town calls. The call is referred to you because the attorney is out of town. The son asks what information he needs to bring in to get the estate probated and what the fees will be. Which of the following statements is true? 34) _____

A) You may tell him the fees but he must discuss the items required for probate with the attorney.
B) You may not answer any of his questions.
C) You may answer all his questions.
D) You may tell him the items needed to probate the will, but he must discuss the fee with the attorney.

35) An attorney employs a paralegal. A complaint has been filed against the attorney by a client for missing a statute of limitations deadline. The attorney's defense is the paralegal did not properly record the statute of limitations date. The paralegal knew nothing about the case and, in fact, had never heard of the case. The paralegal has just received notice to attend a deposition regarding the case. The paralegal must: 35) _____

A) Hire an attorney outside the office to represent the paralegal at the deposition, and go to the deposition and tell the truth
B) Go to the deposition and tell the truth
C) Protect the attorney and the firm from being in serious trouble by saying it was the paralegal's fault
D) Attend the deposition with an attorney from the law firm and tell the truth

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36) Which function should not be performed by a paralegal because of ethical restrictions or because it constitutes the unauthorized practice of law? 36) _____
A) Conduct legal research
B) Interview clients to gather information
C) Take depositions
D) All of the above
E) None of the above

37) Which of the following should not be performed by a legal assistant because of ethical restrictions or because it constitutes the unauthorized practice of law? 37) _____
A) Appear in administrative hearings before the Workers Compensation Board
B) Attend depositions and trials with the attorney
C) Summarize legal documents
D) All of the above are prohibited.
E) None of the above are prohibited.

38) The legal profession in considered "self-reporting." This means 38) _____
A) Lawyers have a duty to report unethical conduct of other lawyers which they personally observe and which calls into questions the fitness of the other lawyer
B) Lawyers have a duty to report unethical conduct of other lawyers they personally observe
C) Lawyers have a duty to report the unethical conduct of other lawyers
D) Lawyers have a duty to report unethical conduct of other lawyers if it will give them a competitive advantage in a case

39) You work for a firm of attorneys with primary responsibility to one lawyer, who is presently out of town and tells you to meet with his clients to sign a contract of sale for real estate. The clients are the sellers and the purchasers do not have an attorney. During the course of the conversation, after the parties read the agreement, you realize there was a misunderstanding on the part of your clients as to terms suggested by the purchasers, although the contract is drawn in accordance with your clients' wishes. Your clients are elderly people, and it appears the purchasers may succeed in convincing them to change the terms to the detriment of your clients. The legal assistant should: 39) _____
A) Advise all parties that the matter will have to wait until your employer returns in two weeks' time
B) Tell the clients they should not sign anything that would change the terms from those presently in the contract
C) Make the changes to the contract that benefit your client and have them sign it
D) None of the above

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40) Kara became a paralegal after working as a legal secretary for many years in a general practice law office. After she received her paralegal degree, the law firm placed her name on letterhead, gave her business cards, and put her name on her office door. In each instance, she is clearly identified as a paralegal. 40) _____

Kara felt she could prepare wills and simple deeds in her sleep, because she had typed so many of them in her secretarial days. Although her boss was not involved, she was sure her boss appreciated her taking care of these things for some of the regular clients, who often praised her ability and were glad her hourly rates were so much less than a partner's hourly rates.

Because she is so well known in her local legal assistant organization, Kara often was asked to speak at seminars and at some of the legal assistant classes. She always took this opportunity to brag about her firm, its areas of practice, and some of its larger clients. Once she even defended a client's good name, using information she learned from letters and memos between the client and her attorney.

From time to time, she receives job offers from other firms. She thinks if her office really appreciates her, they could split some of the fees with her from the cases on which she worked. She plans on mentioning this idea to the office manager.

Which of the following acts are violations or are potential violations of ethics by Kara or by the firm she works for?

A) Allowing Kara to have business cards, Kara's speaking at legal assistant classes without an attorney present, Kara's defending a client's good name by using inside information, and allowing Kara's name to appear on her office door
B) Kara's final preparation of wills and deeds without supervision of the attorney, allowing Kara to have business cards, splitting fees on certain cases with Kara, Kara's speaking at legal assistant classes without an attorney present, Kara's discussing some of the firm's larger clients in public, Kara's defending a client's good name by using inside information, and allowing Kara's name to appear on her office door
C) Kara's final preparation of wills and deeds without supervision of the attorney, splitting fees on certain cases with Kara, Kara's discussing some of the firm's larger clients in public, and Kara's defending a client's good name by using inside information
D) Including Kara's name on letterhead, Kara's final preparation of wills and deeds without supervision of the attorney, splitting fees on certain cases with Kara, and allowing Kara's name to appear on her office door
E) Including Kara's name on letterhead

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1) FALSE
2) FALSE
3) FALSE
4) TRUE
5) TRUE
6) FALSE
7) FALSE
8) FALSE
9) TRUE
10) FALSE
11) TRUE
12) TRUE
13) FALSE
14) TRUE
15) TRUE
16) TRUE
17) FALSE
18) TRUE
19) FALSE
20) TRUE
21) A
22) D
23) D
24) B
25) A
26) B
27) C
28) A
29) A
30) C
31) A
32) A
33) A
34) D
35) A
36) C
37) E
38) A
39) A
40) C

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