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# Mastering Professional Responsibility

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**Grace M. Giesel**

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AND

DISTINGUISHED TEACHING PROFESSOR

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# Series Editor's Foreword

The Carolina Academic Press Mastering Series is designed to provide you with a tool that will enable you to easily and efficiently “master” the substance and content of law school courses. Throughout the series, the focus is on quality writing that makes legal concepts understandable. As a result, the series is designed to be easy to read and is not unduly cluttered with footnotes or cites to secondary sources.

In order to facilitate student mastery of topics, the Mastering Series includes a number of pedagogical features designed to improve learning and retention. At the beginning of each chapter, you will find a “Roadmap” that tells you about the chapter and provides you with a sense of the material that you will cover. A “Checkpoint” at the end of each chapter encourages you to stop and review the key concepts, reiterating what you have learned. Throughout the book, key terms are explained and emphasized. Finally, a “Master Checklist” at the end of each book reinforces what you have learned and helps you identify any areas that need review or further study.

We hope that you will enjoy studying with, and learning from, the Mastering Series.

Russell L. Weaver  
Professor of Law & Distinguished University Scholar  
University of Louisville, Louis D. Brandeis School of Law



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# Preface

Any law student should have three goals in the study of professional responsibility. The short-term goal, and the one law students usually have no trouble identifying, is mastering the subject so that the students will do well in the law school professional responsibility course. Second, most law students have, as a long-term goal, the practice of law. To accomplish this goal, generally one must be admitted to practice in a jurisdiction. Most jurisdictions require applicants to the bar to have achieved a certain score on the Multistate Professional Responsibility Exam (MPRE). Thus, a second goal of law students is mastering the subject matter so as to obtain the requisite score on the MPRE. Finally, all law students should have the goal of mastering the subject of professional responsibility in an effort to be ethical and competent lawyers for the duration of their professional lives.

My goal with this book is to assist law students in these endeavors. This book is not a replacement for professional responsibility textbooks and classroom experience; it is a supplement to those vital elements of the study of professional responsibility. I attempt to discuss the rules and concepts clearly and concisely with reference to relevant case law and other authorities.

In addition to a thorough discussion of the American Bar Association's Model Rules of Professional Conduct, any course in professional responsibility must also explore the related constitutional requirements, evidentiary rules, rules of procedure, and case law dealing with matters that touch upon lawyer conduct. All of these matters are covered by the MPRE as well. This book discusses them, too.



# A Note about the Rules Quoted or Discussed in This Book

Forty-nine states (all but California) and the District of Columbia follow some version of the American Bar Association's Model Rules of Professional Conduct as the standards governing lawyer conduct. Law school professional responsibility courses focus on these rules as well. Also, the Multistate Professional Responsibility Exam (MPRE) tests, among other things, the most recent version of the Model Rules. The ABA holds the copyright on the Model Rules.

State rules are in the public domain. Thus, the rules of professional responsibility can be studied by focusing on the rules of states that have made the Model Rules the applicable rules of the state. This book often refers to the Delaware Lawyers' Rules of Professional Conduct because Delaware has adopted many of the Model Rules and comments verbatim, or virtually so. If the relevant Delaware rule varies significantly from the Model Rule, this book discusses another state's rule that is the same, or almost the same, as the Model Rule. Whenever the book refers to a rule, the accompanying state abbreviation indicates the state rule being discussed. For example, the discussion of "Rule 1.1(DE)" indicates that Delaware's version of Rule 1.1, which is substantially the same as Model Rule 1.1, is being discussed.

