

## Required Section 5

### Confidentiality Issues and the Potential Client

- Discuss the ethical obligations to a potential client even when the attorney does not take the client's case.
- Discuss specific examples of client information which is confidential and when such information should and should not be revealed. Examples for discussion include:
  - Propriety of disclosing that you have been retained by someone.
  - Disclosing the name of your client to a third party.
- Discuss appropriate ways to obtain waiver of privilege and the circumstances in which it is likely to be obtained in the new lawyer's areas of practice. Discuss the difference between implied and express waiver and identify conduct which effectuates waiver.
- Discuss the potential of gaining unintentional clients and ways to avoid doing so.
- Discuss common mistakes concerning violations of client confidentiality and share practical pointers in and outside the office for safeguarding confidential information. Examples for discussion include:
  - Proper procedures for file keeping and ensuring that clients who visit an office do not see confidential information concerning other clients.
  - Propriety of discussing your client's case in public (even at the courthouse).
  - Potential hazards of using email or facsimiles to communicate confidential information.
- Where applicable, discuss confidentiality issues when the new lawyer's client is an entity instead of an individual. Examples for discussion could include:
  - Which communications are confidential?
  - With whom can the new lawyer discuss confidential information?
- Discuss the obligation to maintain confidentiality of potential clients who consult with the new lawyer but no attorney-client relationship is formed.