

**Tuesday, April 4, 2023** (class 19 of 30!!)

**Today:** Ethics & Professional Responsibility continued!

**Now:** Complete handout, "Ethical Billing Practices"!

**For next class** (Tu April 18!): On Sources of Law: read textbook ch. 5 pp. 119-122 (up to "Remedies at Law...") and pp. 126-129 (from "The Common Law Today" to "Constitutional Law")

**W April 5 – Th April 13:** HAPPY SPRING RECESS! ☺

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**Ethics and professional responsibility!! Continued!**

**ethics** = basic concepts and fundamental principles of decent human conduct

**professional responsibility** = legal and moral duty of a professional to apply her/his knowledge in ways that benefit the client, and the wider society

Source: business-dictionary.com

**Paralegal ethical duties!!** *Honesty, plus . . . the "3 C's"!*

- **Competence** → *be good!* Be knowledgeable and thorough in performing your job.
- **Confidentiality** → *be quiet!* Includes attorney-client privilege.
- **Conflicts of interest** → *be careful!* Avoid them! Conflicts arise when an attorney's representation of one client can injure the interests of another client.

Plus . . . **AVOID Unauthorized Practice of Law** → conduct constituting the "practice of law" by an individual who is not a licensed attorney.

**Paralegal ethics** are guided by:

- NALA Code of Ethics & Professional Responsibility
- NFPA Model Code of Ethics & Professional Responsibility

**Attorney ethics!!** Ethical rules governing attorneys are determined by:

- bar associations (voluntary organizations of lawyers) *and*
- state legislatures *and*
- state courts . . . *all together!* ☺

**Attorney ethical rules in NY** = NY Rules of Professional Conduct! Have the force of LAW. *Obey them.*

**Hypothetical!!** Attorney Angela has an hourly fee arrangement with each of her clients. On Monday, she spent **three hours** in court (10am-1pm) for a motion hearing in **client Collins'** case. The hearing was scheduled for 10am, but at 10:15am, the judge's clerk informed Angela that the judge had been called away, and Angela should come back at 12:30pm. Angela stayed at the courthouse. To pass the time, she spent **one hour** reading documents for **client Lee's** case (10:30-11:30am), and a **half-hour** talking to the clerk for the judge in **client Rodriguez's** case (11:30-12 noon). From **noon to 12:30pm**, Angela reviewed notes in preparation for **Collins'** motion hearing, and from **12:30-1pm** she participated in the hearing.

**When Angela sent out her monthly bills, she charged:**

- **client Collins** for **three hours** (10am-1pm, when she was in the courthouse for Collins' case); *and*
- **client Lee** for **one hour** (10:30-11:30am reading documents); *and*
- **client Rodriguez** for **one-half hour** (12-12:30pm talking to clerk in Rodriguez's case).

?? *Did Angela bill her clients properly?* **NO!!** This is an example of double-billing. *It is unethical.*

**Attorney-client privilege:**

- Attorney (and staff) are prohibited from revealing certain info regarding representation of a client, even in court! *Unless client consents.* That information is **privileged!!**
- Includes:
  - client's communications with attorney/staff about a legal matter in which client is involved
  - "work product" = info relating to attorney's legal strategy → *including notes, drafts, and paralegal memos!*
- Lasts forever! *Can cause later conflicts of interest.* ☹

**Consequences to attorneys for violating legal ethics** *include:*

- disciplinary proceedings before state governing body (often a court), *which can result in:*
  - reprimand
  - suspension
  - disbarment
- loss of job, business, good reputation
- sued for malpractice

**Consequences to paralegals for violating legal ethics** *include:*

- lose job, business, good reputation
- statutory violations: UPL, business laws
- personal liability for damages
- lose certification (per NALA, NFPA Codes of Ethics)

*Do the right thing!* ☺