**CHAPTER 4: DUTY TO CLIENTS**

**MULTIPLE CHOICE**

1. Which of the following terms describes a person who must act with scrupulous good faith, honesty, and candour for the benefit of another person, who places absolute trust and confidence in them?
   1. Competent paralegal
   2. Fiduciary
   3. Beneficiary
   4. Continuing client

Authority: Text p. 109

1. Which of the following statements describing the required actions of a paralegal when after commencing a retainer they discover they lack the competence to complete the legal task is FALSE?
   1. The paralegal shall immediately surrender their paralegal license to the Law Society
   2. The paralegal shall obtain the client’s consent for the paralegal to become competent without undue delay, risk or expense to the client
   3. The paralegal shall obtain the client’s consent to retain, consult or collaborate with another licensee who is competent and licensed to perform that task
   4. The paralegal shall decline to act
   5. Authority: Text p. 111; *Paralegal Rules of Practice* Rule 3.01(3)
2. Which of the following statements dscribing the competency requirements of a licensed paralegal is FALSE?
   1. A competent paralegal pursues appropriate training and development to maintain and enhance their knowledge and skills
   2. A competent paralegal represents client in a conscientious, diligent and cost-effective manner
   3. A competent paralegal knows general legal principles and procedures and the substantive law and procedures for the legal services that the paralegal provides
   4. A competent paralegal communicates with the client only at the outset and at the conclusion of the legal matter

Authority: Text p. 112; *Paralegal Rules of Practice* Rule 3.01(4)

1. In the introduction to the *Paralegal Professional Conduct Guidelines* it is noted at paragraph 2 that “…Neither the rules nor the Guidelines can cover every situation; they should be interpreted and applied with common sense and in a manner consistent with the public interest and the integrity of the profession.” Which of the following statements describing how a paralegal should interpret the Guidelines to best satisfy this competency requirement is TRUE?
   1. A paralegal should maintain updated knowledge of procedural law
   2. A paralegal should maintain updated knowledge of substantive law
   3. A paralegal should apply their professional judgment to make sensible decisions about client matters and their own conduct
   4. A paralegal should never commit any errors or omissions in their legal practice

Authority: Text pp. 114-15; *Paralegal Professional Conduct Guidelines* Guideline 6

1. To meet the continuing education and professional development requirements of their paralegal license with the Law Society of Ontario, in every year after 2020, P1 licensees are required to complete 1 hour of legal training dealing with what specific subject area?
   1. The substantive law related to the legal services the paralegal provides
   2. The procedural law related to the legal services the paralegal provides
   3. Professionalism training that deals with issues of equality, diversity, and inclusion
   4. Professionalism training that deals with expanding the scope of paralegal practice

Authority: Text p. 118; *Paralegal Rules of Conduct* Rule 3.01(4)(j)

1. Which of the following statements regarding a paralegal’s duty to be honest and candid with their clients is TRUE?
   1. A paralegal is required to tell clients both the good and bad news about all matters relevant to their legal retainer
   2. A paralegal is only required to tell clients the good news about all matters relevant to their legal retainer
   3. A paralegal is only required to tell clients the bad news about all matters relevant to their legal retainer
   4. A paralegal is permitted to apply their professional judgment regarding which matters to tell their clients about that are relevant to their legal retainer

Authority: Text pp. 119-20; *Paralegal Rules of Conduct* Rule 3.02(1)-(3); *Paralegal Professional Conduct Guidelines* Guideline 7

1. Which of the following terms describes the resolution of a dispute through negotiation, mediation, arbitration, or similar means, instead of through litigation?
   1. Continuing relationship
   2. Independent legal advice
   3. Professional judgment
   4. Alternative dispute resolution

Authority: Text p. 128

1. When does a duty of confidentiality arise with regard to a paralegal and their clients?
   1. When the client pays a monetary retainer
   2. When both the client and the paralegal sign a paralegal-client retainer agreement
   3. When the paralegal sends the client a client engagement letter confirming the details of the paralegal-client retainer
   4. When the paralegal-client relationship begins, which can be as soon as the initial contact if confidential information is received by the paralegal at the initial contact

Authority: Text p. 133; *Paralegal Rules of Conduct* Rule 3.03(1)

1. Which of the following statements regarding a paralegal’s obligations to their clients with regard to the *Personal Information Protection and Electronic Documents Act* (PIPEDA) is FALSE?
   1. The personal information that paralegals collect about clients must be protected under PIPEDA using a privacy policy and procedures
   2. Because the personal information about clients collected by paralegals is protected by their ethical duty of confidentiality, paralegals are exempt from the requirements to implement a privacy policy and procedures
   3. PIPEDA regulates the collection, use, and disclosure of personal information by organizations in Ontario, including paralegal firms, in the course of their commercial activity in the private sector
   4. PIPEDA does not apply to the personal information of the employees who work for paralegal firms

Authority: Text pp. 144-45

1. Which of the following situations describes circumstances where the justified disclosure of a paralegal client’s confidential information without the client’s authorization is mandatory?
   1. If the paralegal believes on reasonable grounds that there is an imminent risk of death of serious bodily harm, and the disclosure is necessary to prevent the death or harm
   2. To establish or collect the paralegal’s fees
   3. When the paralegal is ordered by a court or tribunal of competent jurisdiction to disclose confidential information
   4. To defend against allegations that the paralegal or their employees have engaged in acts of professional misconduct or conduct unbecoming a paralegal

Authority: Text pp. 138-39; *Paralegal Rules of Conduct* Rule 3.03(4)-(10)

1. Which of the following statements regarding a paralegal’s professional obligations with regard to withdrawing from representing a client is TRUE?
   * 1. A paralegal is not permitted to withdraw from representation from representation of a client except for good cause and on reasonable notice to a client
     2. A paralegal may terminate the paralegal-client retainer at any time, for any reason
     3. A paralegal may withdraw from representing a client in a quasi-criminal or criminal matter for any reason at any time up until the commencement of the trial
     4. The only basis for a paralegal to withdraw from ever representing a client is for non-payment of fees

Authority: Text p. 173; *Paralegal Rules of Conduct* Rule 3.08(1)

1. You are a paralegal who owns a successful legal services firm that employs two paralegal associates, one law clerk, and one receptionist. You also routinely supervise a field placement student from the local college at your firm. Which of the following statements regarding the duty of confidentiality owed to the clients of your firm is TRUE?
   1. You, your employees and the field placement students you supervise owe a duty of confidentiality to all of the clients of your firm
   2. Your employees and field placement students owe a duty of confidentiality to the clients whose matters they complete work on, but not the clients whose matters they don’t work on
   3. You, and your employees owe a duty of confidentiality to the clients of your firm, but not the field placement students you supervise
   4. You and the field placement students you supervise owe a duty of confidentiality to the clients of your firm, but not your employees

Authority: Text pp. 132-33; *Paralegal Rules of Conduct* Rule 3.03; *Paralegal Professional Conduct Guidelines* Guideline 8

1. You have a longstanding client who owns several apartment buildings located in the city where you are a partner at a respected paralegal firm. Because of the large number of tenants who live in these buildings, your client is frequently requires representation at the Landlord Tennant Board regarding tenant disputes. One day while you are chatting with another paralegal who is an associate at your firm, they advise you of a new client they recently met with who lives in a building you recognize is owned by your longstanding client. Based on the provided information, which of the following statements with regard to managing conflicts of interest is TRUE?
   1. There is no conflict of interest if your associate only provides legal services to the tenant and not the owner of the buildings
   2. There is no conflict of interest if you take over tenant’s matter and represent both the tenant and the owners of the buildings because you are a partner in the firm and not an associate
   3. There is a potential conflict of interest but you need more information on the nature of the tenant’s legal issue to determine if a conflict of interest exists
   4. There is a conflict of interest because there is a connection between the tenant and the owner of the building, regardless of the nature of the legal issue the tenant has retained your firm for

Authority: Text pp. 146, 148; *Paralegal Rules of Conduct* Rule 3.04; *Paralegal Professional Conduct Guidelines* Guideline 9

1. Michael is a paralegal associate at a legal firm that specializes in defending driving offences. His ex-girlfriend, who he have not spoken to since he broke up with her two years ago when she crashed his car in a street race, now wants to retain Michael to represent her on a recent careless driving charge. Michael knows from the time that he was dating Tina that she is a terrible driver who frequently breaks the speed limit. Based on the provided information, which of the following statements regarding Michael’s professional obligations as a paralegal with regard to conflicts of interest is FALSE?
   1. Because his personal relationship with Tina may interfere with his fiduciary obligations to her as a client, he has a duty to consider whether he has a conflict of interest in the matter
   2. If another paralegal at Michael’s firm handles Tina’s file, there is likely no conflict of interest if Michael’s colleague does not have a personal relationship with Tina that would interfere his colleague’s fiduciary obligations to her as a client
   3. Michael is required to decline the retainer to represent Tina under all circumstances because he broke up with her to end the relationship and she did not break up with Michael
   4. Michael is required to consider whether he has a conflict of interest in the matter because his personal feelings about Tina may impair his ability to provide to provide her with objective legal advice

Authority: Text p. 154; *Paralegal Rules of Conduct* Rule 3.04(1); *Paralegal Professional Conduct Guidelines* Guideline 9

1. You are an associate working as a paralegal at a local law firm. Yesterday you met with a prospective client who wants to retain you to proceed on their behalf with an application to the Ontario Human Rights Tribunal alleging sexual harassment against their manager. They are a salesperson at a shoe store and their manager is constantly touching their hair and clothes telling the salesperson how beautiful they are. Today you input your prospective client’s information into your firm’s conflict checking system and identified that a partner at your firm previously represented the same manager of the same shoe store defending a different sexual harassment claim by a different employee. Based on the provided information, which of the following statements with regard to managing conflicts of interest is TRUE?
   1. There is no conflict of interest if you are retained on the new sexual harassment matter because the allegation is being made by a different employee who was not involved in the prior dispute
   2. There is no conflict of interest if you are retained on the new sexual harassment matter because you did not complete any legal work on the prior sexual harassment matter that was handled by your firm
   3. There are no circumstances that you would ever be permitted to be retained by the employee in the new sexual harassment claim because your firm previously defended their manager in a prior sexual harassment dispute
   4. You may be permitted to represent the employee in the new sexual harassment claim if their manager provides fully informed and voluntary consent after disclosure for you to act against him even though they are a former client in a related matte

Authority: Text pp. 156-57; *Paralegal Rules of Conduct* Rule 3.04(2),(4)(a)(b)

1. You are a licensed paralegal who has been retained by your client Adam in a landlord tenant dispute. Adam is very frustrated with what he feels has been unfair treatment by his landlord who has filed an application to evict him from his apartment. During your meeting with Adam this morning, he said that if he is evicted he will “kill his landlord”. Based on the provided information, which of the following statements is TRUE with regard to your professional obligations as a paralegal?
   * 1. You are required to immediately disclose Adam’s threat against his landlord to prevent the death of Adam’s Landlord
     2. You are prohibited from disclosing Adam’s threat against his landlord under any circumstances
     3. You are permitted to disclose Adam’s threat against his landlord if you believe on reasonable grounds that there is an imminent risk of death or serious bodily harm to Adam’s landlord
     4. The only way that you are permitted to disclose the threat against Adam’s landlord is if you first obtain a court order for the necessary disclosure

Authority: Text pp. 139-40; *Paralegal Rules of Conduct* Rule 3.03(5)

1. Kevin is a licensed paralegal with a busy and successful paralegal practice specializing in small claims court litigation. One of Kevin’s commercial clients has not paid their legal fees for a three-day trial that he successfully argued for them. If Kevin would like to use a collection agency for his client’s outstanding account, which of the following statements regarding his professional obligations with regard to his client’s confidential information is FALSE?
   * 1. Kevin is required to disclose his entire client file to the collection agency to facilitate the debt collection
     2. Kevin should limit the confidential information provided to the collection agency to that which is necessary to collect the fees
     3. Information contained in Kevin’s client file that is not necessary to enforcement should be deleted or blocked out
     4. Kevin may disclose confidential information to the collection agency to collect his fees

Authority: Text p. 142; *Paralegal Rules of Conduct* Rule 3.03(7)(9); *Paralegal Professional Conduct Guidelines* Guideline 16

1. Jeremy is a licensed paralegal who specializes in employment law disputes. After several years providing legal services with a paralegal firm in his hometown, Jeremy recently accepted an offer to join a competing firm that will help him expand his client base. Which of the following statements regarding Jeremy’s professional obligations regarding the disclosure of confidential information to detect conflicts of interest at his new firm is TRUE?
   * 1. Jeremy is not permitted to disclose any confidential information under any circumstances to his new firm to detect conflicts of interest
     2. Jeremy is not permitted to disclose confidential information to his new firm unless he first obtains authorization from his clients to do so
     3. Jeremy may disclose confidential information to his new firm to the extent reasonably necessary to detect and resolve conflicts of interest arising from his change in employment
     4. Jeremy is permitted to disclose any and all confidential information to his new firm without any restrictions

Authority: Text p. 142; *Paralegal Rules of Conduct* Rule 3.03(10); *Paralegal Professional Conduct Guidelines* Guideline 8

**SHORT ANSWER**

1. Explain the distinction between “substantive law” and “procedural law” and the role of both of these types of law in the competency requirements of a licensed paralegal.

Authority: Text p. 112; *Paralegal Rules of Conduct* Rule 3.01(4)

1. Explain the distinction between a “general bank account” and a “mixed trust bank account”. In your answer describe the purpose of each and how a paralegal is required to use them to best serve their client’s interests.

Authority: Text pp. 67, 124

1. What are the two types of authorization that a client could provide for a paralegal to disclose their confidential information on their legal matter? In your answer provide an example of how a paralegal would recognize each of these types of client authorization.

Authority: Text pp. 137-38; *Paralegal Rules of Conduct* Rule 3.03(1)(a), *Paralegal Professional Conduct Guidelines* Guideline 8

1. Describe the difference between “justified disclosure” and “permitted disclosure” of confidential client information. In your answer describe a paralegal’s obligations to disclose their client’s confidential information for both of these categories of disclosure.

Authority: Text p. 138; *Paralegal Rules of Conduct* Rule 3.03(4)-(9); *Paralegal Professional Conduct Guidelines* Guideline 8

1. Describe the limitations imposed by the Law Society on a paralegal disclosing the confidential information of their client without their client’s authority.

Authority: Text p. 138

1. Identify the requirements that a paralegal must satisfy to maintain a valuable property record accounting for all property, other than money, that is held in trust for their clients.

Authority: Text p. 171; By-Law 9, section 18(9)

1. Describe FOUR (4) examples of documents provided to a lawyer at the start of a retainer and that are created during the retainer as part of the provided legal services that the common law has identified belong to the client and that serve as a relevant example of how the jurisprudence may be applied to define a paralegal’s client file in future.

Authority: Text p. 173; *Paralegal Professional Conduct Guidelines* Guideline 10, paragraph 5

1. Identify and explain the two categories of exceptions to the general prohibition under the *Paralegal Rules of Conduct* requiring that a paralegal shall not borrow from a client?

Authority: Text pp. 166-67

1. Are there any circumstances under which a paralegal may act against a former client in the same or a related matter? Explain the basis for your answer by referencing the relevant professional obligations for a paralegal that are stipulated by the Law Society.

Authority: Text pp. 156-57

1. What are the criteria that a licensed paralegal must satisfy in order to meet their professional obligations to the Law Society when they want to withdraw from a case for the non-payment of fees in a matter that is NOT a quasi-criminal or criminal matter?

Authority: Text p. 176; *Paralegal Rules of Conduct* Rule 3.08(1)(6)

1. You are a licensed paralegal who has recently been retained by a new client with regard to a landlord tenant matter. They are unhappy with the state of repairs on their rental unit and so want you to make an application to the Landlord Tennant Board for a rent abatement. During your last meeting with your client to finalize the application, they were very angry about how the owner of their apartment building ignores their requests about the repairs. During one of their tirades your client mentioned that they are sure that the landlord is using one of the empty units as an illegal marijuana grow-op. Your client is impatient about how long that matter will take to be heard and so instructed you to threaten the landlord with reporting the grow-op to the police if the landlord dos not agree to a rent abatement. Based on the provided information, how should you proceed with this matter?

Authority: Text p. 127; *Paralegal Rules of Conduct* Rule 3.02(9), Rule 3.08(5)(b)

1. You are the owner of a large paralegal firm that employs several paralegals, law clerks and administrative staff. You also routinely supervise paralegal field placement students from the local college because you find it is an efficient way to recruit new talent to your growing business. Recently you met with a long-term client of your firm who owns a chain of prominent restaurants in the community. You had your new field placement student sit in on the meeting where you discussed your client’s plans to downsize their business due to the recent economic downturn and your recommended strategy for terminating the employees at the location that your client has decided to close. Your field placement student listens attentively to your discussion with your client and seems upset about what they hear. After the meeting they mention that they have friends who work at the restaurant that is going to be closed and that they depend on the money they earn in tips to pay for their tuition. Given the provided information, what paralegal responsibilities should you discuss with your field placement student to remind them of their obligations?

Authority: Text pp. 132-33; *Paralegal Rules of Conduct* Rule 3.03(1)-(3); *Paralegal Professional Conduct Guidelines* Guideline 8

1. Kelly is a licensed paralegal who works as an associate in a law firm. She had an initial consultation meeting with Sally on a Small Claims Court matter related to a burn that Sally sustained on her legs when using an ultraviolet tanning bed at the Sun-A-Soleil tanning salon. After the meeting Kelly thought the name of the tanning salon seemed familiar. She searched the conflict checking system at her law firm and identified that her firm is already defending Sun-A-Soleil in two other personal injury claims made by other customers. Based on the provided information, what steps is Kelly required to take with regard to Sally’s legal matter to fulfil her professional obligations as a licensed paralegal?

Authority: Text pp. 147-48; *Paralegal Rules of Conduct* Rule 3.04; *Paralegal Professional Conduct Guidelines* Guideline 9

1. You are a licensed paralegal with your own successful paralegal firm specializing in human rights law. You recently met with the manager of a retail electronics store who you are defending in a sexual harassment claim. One of the salespeople your client supervises alleges that your client sexually harassed them on the job by threatening to schedule them only for unprofitable daytime shifts on weekdays when they were unlikely to earn high sales commissions unless they went on a date with them. The employee consistently refused to go out on a date with your client, and has now made an application to the Ontario Human Rights Tribunal alleging sexual harassment. During your meeting with your client, they told you they “can’t believe this salesperson is kicking up such a fuss over being asked out on a date” when a few years ago they actually “slapped a former salesperson in the face” for refusing to go out with them. Based on the provided information, what are your obligations as a licensed paralegal regarding your client’s admission that they slapped a former employee for refusing to date them?

Authority: Text pp. 138-39

1. Emily is a licensed paralegal who operates a paralegal firm specializing in small claims court disputes. Her client Jamal was an employee at a local musical instrument shop that specializes in rare guitars. Jamal was fired from his job as a salesperson and as a music instructor at the music store when the owner accused him of stealing a particularly valuable electric guitar. Jamal insists that the electric guitar was part of his compensation agreement with the owner. While the dispute is before the courts her client has agreed to hand over the guitar to Emily. Based on the provided information, what steps should Emily take with regard to taking possession of the electric guitar in dispute so that she complies with her professional obligations as a paralegal?

Authority: Text pp. 170-71

1. Emeril is a licensed paralegal who was retained by his client Anthony to defend him on a speeding charge that is being prosecuted in Provincial Offences Court. Two weeks before the scheduled trial, Anthony decided that he didn’t trust Emeril’s legal advice anymore and so he terminated the retainer and hired another paralegal to represent him. To comply with his professional obligations as a paralegal, what steps is Emeril required to take with Anthony’s file?

Authority: Text pp. 172-73; *Paralegal Rules of Conduct* Rule 3.07(1)(5); *Paralegal Professional Conduct Guidelines* Guideline 10

1. Keith is a licensed paralegal who has several years of experience representing clients in a broad range of Small Claims Court litigation. Over the years he was retained a few times as the representative of a local automobile mechanic shop to defend breach of contract claims commenced by customers who were not satisfied with their vehicle repairs. Earlier today Keith had an initial consultation with a prospective client named Amelia who fallen when she visited the same automobile mechanic shop to drop off her vehicle to have her seasonal tires changed. She claims to have slipped on some spilled motor oil that was on the floor of the customer lounge. Amelia sprained their wrist in the fall and missed several weeks of work as a result of her injury. Based on the provided information, is Keith permitted to accept the retainer to represent Ameila in her personal injury claim?

Authority: Text pp. 156-57

1. Sunil is a licensed paralegal who specializes in representing clients charged with summary conviction Criminal Code offences. One of Sunil’s clients named Barney retained Sunil to represent him to defend a public nudity charge from when he went skinny dipping at a public beach in the summertime. Barney’s trial is scheduled to commence in four months but he has not paid any of his interim statements of account on the matter. Sunil is reluctant to continue with the file because based on his interactions with his client, he does not think that Barney will pay the fees they agreed to in their paralegal-client retainer agreement. For Sunil to withdraw from representing Barney for non-payment of fees, what requirements must he satisfy to meet his professional obligations as a paralegal?

Authority: Text pp. 176-77