Author’s Introduction

The lawyer ethics chapters of this treatise are designed to provide both an overview of professional responsibility in Iowa and a thorough analysis and practical explanation of each of the provisions in the Iowa Rules of Professional Conduct and other pertinent Iowa court rules. This survey of legal ethics in Iowa is conducted with attention to foundational principles of legal ethics, moral principles and professional aspirations, the text and drafting history of the formal rules, Iowa Supreme Court decisions, and national trends and developments.

What’s New in the 2019 Edition:

Among the developments addressed in this new 2019 edition are:

- Notation that automatic review of the score of unsuccessful applicants for the Iowa bar has been eliminated, allowing for review by the Iowa Supreme Court only for extraordinary circumstances
- Added Iowa Supreme Court’s clarification that, for disciplinary sanction, a prior disciplinary action is an aggravating circumstance only if related to the current misconduct
- Added Iowa Supreme Court’s admonition in Attorney Disciplinary Board v. Turner that an attorney rebuked for neglect should view the mistake as a “wake-up call” to avoid further trouble
- Added a new subsection on the lawyer’s duty to inform the client of material errors by the lawyer
- Discussion of the Iowa Supreme Court’s new decision in Fenceroy v. Gelita USA, Inc. about implied waiver of the attorney-client privilege when the client relies on the lawyer’s actions in making a claim or defense
- Discussion of the ABA opinion on the lawyers’ obligations after an electronic data breach or cyberattack
- Discussion of new Iowa Supreme Court decision on the necessary disclosures for informed consent by a client to a business transaction with a lawyer
- Addition of Iowa Supreme Court’s observation that lawyers engaged in sexual relationships with clients is a recurring problem that may require more severe sanctions
- Discussion of newly-adopted Iowa Standards of Practice for Lawyers Representing Children in Custody Cases
• Citation to the new “Best-Practice” guide for client selection, avoidance of conflicts of interest, and case processing from the Ethics & Practice Guidelines Committee of the Iowa State Bar Association
• Discussion of new Iowa Supreme Court decision in Attorney Disciplinary Board v. Mathahs on the lawyer’s duty to supervise nonlawyer assistants
• Clarification that the lawyer’s duty of honesty does not impose an affirmative duty to candidly divulge information in contested litigation
• More detailed discussion of a criminal defense lawyer’s right to examine real evidence that law enforcement may not have discovered
• Quotation from the Iowa Supreme Court’s new supervisory order prohibiting ex parte communications
• Discussion of new federal appellate decision on state ethics rules regulating prosecutors in issuing subpoenas to lawyers
• Updating of comparisons between the Iowa Rules of Professional Conduct and the Model Rules of Professional Conduct to include the new revisions to and streamlining of the Model Rules on lawyer communications about legal services
• Discussion of United States Supreme Court’s decision in National Institute of Family & Life Advocates v. Becerra as questioning a different First Amendment standard for professional speech
• Discussion of new Iowa Supreme Court decision in Attorney Disciplinary Board v. Stansberry on sexual harassment
• Discussion of new Iowa Supreme Court decision in Skadburg v. Gamely on accrual, the discovery rule, and fraudulent concealment for the statute of limitations on legal malpractice claims

From the very first edition of this Iowa treatise in 2007, the commentary on each rule in the Iowa Rules of Professional Conduct has begun with a comparison of the current Iowa rule with both the Model Rules of Professional Conduct and with the former Iowa Code of Professional Responsibility. Now that the Iowa Rules of Professional Conduct have been in effect for more than a decade, and as the former Code falls ever further into the past (have been superseded by the American Bar Association for some 35 years), the comparison of the Iowa Rules of Professional Conduct with the former Code is progressively less useful. Moreover, as the evolution and updating of both the Model Rules and the Iowa Rules has continued over the past decade, we have not regularly re-evaluated how these recent changes comport with or depart from the former Code. In sum, the comparison with the former Code is becoming more dated and less accurate. Beginning with this edition, the former Code comparison is being
removed. By contrast, the comparison of the Iowa Rules of Professional Conduct with the Model Rules of Professional Conduct is being retained and will continue to be updated. In this way, Iowa lawyers and researchers looking at case-law and opinions in other jurisdictions and commentary on the Model Rules should be aware of the ways in which the Iowa version of the rules differs from the American Bar Association’s model rules.

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