Required Section 5: Client Confidentiality

General Mentoring Tips

· Discuss the importance of client confidentiality for current clients. Discuss the limited exceptions that allow disclosure of confidential information, and provide examples where such exceptions apply. Discuss Rule Prof. Cond. 1.6.

· Discuss the obligation to maintain confidentiality of a potential client who consults with the lawyer but no attorney-client relationship is formed. Discuss Rule Prof. Cond. 1.18.

· Discuss the obligation to maintain client confidences after the termination of the attorney-client relationship. Discuss Rule Prof. Cond. 1.9.

· Discuss common mistakes concerning violations of client confidentiality.

· Share practical pointers in and outside the office for safeguarding confidential information. Topics may include the following:

· Procedures for file keeping and ensuring that clients who visit an office do not see confidential information concerning other clients;

· Propriety of discussing client cases in public, including the courthouse;

· Consequences of discussing confidential information with your client when a third party is present by invitation of your client, including a spouse.

· Office procedures for maintaining and destroying client files which impact client confidentiality

· Potential hazards of using email and facsimiles to communicate confidential information about a case.

· The duty to ensure that non-lawyer assistants safeguard confidential information. Discuss Rule Prof. Cond. 5.3.

· Discuss specific examples of confidential client information and when such information can be revealed, including:

· Propriety of disclosing that you have been retained;

· Disclosing the name of a client to a third party;

· Sharing information about a client's case to opposing counsel during negotiations.

· Discuss the appropriate ways to obtain waiver of privilege and the circumstances in which it is likely to arise in the new lawyer's area of practice.

· Discuss the differences between implied and express waiver and identify conduct which effectuates waiver.