

## RESPONSIBILITY TO MENTOR

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*“Tell me and I forget, teach me and I may remember, involve me and I learn.”*

—Benjamin Franklin

As I’ve done in the past, while Marty Cole is away I’ll turn this month’s focus to “responsibility to the profession” rather than “professional responsibility.” Professional responsibility generally refers to the body of rules that govern our obligations as lawyers, the violation of which results in discipline.<sup>Ftn 1</sup> Though we tend to refer to these rules as *ethical* rules, the Rules of Professional Conduct are less ethical<sup>Ftn 2</sup> rules than minimum standards of conduct.

The Rules focus predominantly on a lawyer’s obligation to clients, the justice system, and the public and less on a lawyer’s obligation to the profession. The profession’s promulgation, enforcement, and compliance with the Rules certainly protect the integrity of the profession in the eyes of the public and preserve its independence and role as guardian of government under law.<sup>Ftn 3</sup> These measures do little, however, to encourage each of us to meet the highest standards of conduct and service commensurate with our oath as lawyers.<sup>Ftn 4</sup> Our responsibilities to each other as members of this noble profession and to improve the quality of legal service and legal education are aspirational rather than obligatory.<sup>Ftn 5</sup> In that sense, they are more a matter of ethics than professional responsibility.

### Role of the Profession

The profession plays a role in promoting the highest standards of professionalism. Our supreme court has adopted and endorsed Professionalism Aspirations that articulate standards of behavior we owe as lawyers to the legal system, clients, other lawyers, and judges.<sup>Ftn 6</sup> Civility is a frequent topic of discussion in

Professional Responsibility and skills courses in law school, an inspiring theme in keynote addresses to new lawyers and law students, a regular subject of articles, and the focus of at least one innovative program for law students.Ftn 7

The profession plays a role in improving the quality of legal services and legal education. The level of competency of the practicing bar was a concern identified by the Henson-Dolan Commission in its 1984 report on the lawyer discipline system.Ftn 8 While the commission declined to recommend a practice assistance program, it decried the level of competency displayed by the bar and called upon the MSBA, the law schools, and continuing legal education providers to raise the skill level of the bar.Ftn 9 Now, 20 years later, the need appears even more critical. The legal market has undergone significant change in recent years.Ftn 10 Competition among lawyers for work and the complexity of the law continue to increase, and clients (and thus law firms) are reluctant to underwrite the cost to train new lawyers. In addition, technology enables and market forces encourage new law graduates to hang their shingles alongside experienced practitioners. The need to ensure a high level of skill among our colleagues, especially our newest colleagues, grows.

The Minnesota State Bar Association and Minnesota CLE have responded to this need through innovative and top-notch programming. The MSBA's Esquire 36 Committee provides practical training to lawyers during the first three years of practice. MCLE's "the minnesota NEW lawyer" websiteFtn 11 and New Lawyer Experience program are go-to resources for new lawyers; its innovative online library, increasingly practical and accessible programs, and desk book series programs make more information than ever before accessible to us. Marty Cole and the other lawyers at the OLPR train lawyers, new and old, via CLE programs, the law schools, and timely weekly and monthly articles on the basics of delivering competent, diligent, effective and conflict-free representation to clients. Our four law schools provide training in the standards of the profession, the policy and ethical implications of the law, and the role and responsibility of lawyers in clinical and other experiential learning contexts. The attention law schools are giving to the need to deliver value, develop essential skills and competencies, and innovate is likely to better meet the public and private need for high quality legal services.Ftn 12

### **Role of the Individual**

Individually, the members of the profession also have a role to play. Each of us should be motivated to improve the quality of legal services and increase professionalism. As members of a self-regulated profession that serves others, we have an obligation to teach each other, lead by example, and reinforce excellence in our

ranks. In addition to being bound by our oath to serve, we are motivated by our commitment to our own reputations and that of the profession. We are motivated by our personal relationships to reinforce the high standard of professionalism in each other.

Further motivation for this ethical responsibility is rooted in the Preamble to the Rules. We are reminded that we have a “special responsibility for the quality of justice,”<sup>Ftn 13</sup> and are called to “strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession’s ideals of public service.”<sup>Ftn 14</sup> As public citizens, we are further called upon to improve “the quality of service rendered by the profession,” “cultivate knowledge of the law beyond its use for clients,” and “work to strengthen legal education.”<sup>Ftn 15</sup>

Each of us can meet these responsibilities by mentoring another lawyer. Mentor programs abound, and for good reason. As Ben Franklin recognized, significant learning occurs by involving the protégé in what we do. Mentoring was recognized as one method to increase competency in the Henson-Dolan Commission report,<sup>Ftn 16</sup> and has been reinforced by recent empirical research showing that new lawyers develop substantive skills, client relations and development skills, and other significant professional benefits from mentoring.<sup>Ftn 17</sup>

Mentoring is one of the easiest and most meaningful ways to raise the skill level of the bar, improve legal education, and inspire excellence in the profession. We can volunteer to be part of one of the many mentoring programs sponsored by local bar associations, other professional organizations, and law schools. We can take advantage of informal mentoring opportunities, which have been shown to be as beneficial as more formal programs.<sup>Ftn 18</sup> Spend time with a law student. Reach out to a new or not-so-new lawyer you meet at your bar or other professional functions, CLE programs, in court, or in your firm. Be a friend, a colleague, a mentor. Consider it your ethical responsibility to the profession.

#### Notes

1 Minnesota Rules of Professional Conduct [hereinafter Minn. R. Prof. C.], Preamble [1], Rule 8.4(a).

2 Ethics is generally recognized as moral issues, or moral philosophy.

3 Minn. R. Prof. C., Preamble [11].

4 Professionalism Aspirations, Preamble (*approved and endorsed by the Minnesota Supreme Court 01/11/2001*).

5 Minn. R. Prof. C., Preamble [6, 7].

6 Professionalism Aspirations, *supra* n. 4.

7 Among other efforts to promote civility, the American Board of Trial Advocates developed a “Civility Matters” program it seeks to bring to every law school in the country. Details on the initiatives are available on its website: <https://www.abota.org/index.cfm?pg=ProfEthicsCivility>

8 See, Report of the Advisory Committee to Review Lawyer Discipline in Minnesota and Evaluate the Recommendations of the American Bar Association, 10/13/1993, filed 01/28/1994 (the “Henson-Dolan Report”) at 10.

9 *Id.*

10 See generally, ABA Task Force on the Future of Legal Education Working Paper (08/01/2013) [hereinafter ABA Task Force Working Paper] at 11.

11 <http://www.mnnewlawyer.org/index.aspx>

12 ABA Task Force Working Paper at 24-26.

13 Minn. R. Prof. C., Preamble [1].

14 *Id.*, Preamble [7].

15 *Id.*, Preamble [6].

16 Henson-Dolan Report at 36.

17 See, Tammy A. Peterson and Mark J. Korf, “The Power of Informal Mentoring Programs,” *The Bench* (March/April 2013), available at <http://tinyurl.com/oeY296c/> Peterson and Korf review the results of the first-of-its-kind, in-depth study of mentoring programs conducted by the National Association for Law Placement Foundation for Law Career Research & Education and Beyond the Bar, part of West LegalEdcenter, a division of Thomson Reuters.

18 *Id.*