



HERBERT CHITEPO LAW SCHOOL

BACHELOR OF LAWS HONOURS DEGREE

LEVEL 3 SEMESTER 2

EXAMINATION QUESTION PAPER

MODULE CODE	LLB322
MODULE NARRATION	LEGAL ETHICS AND PROFESSIONAL TRAINING
DATE	NOVEMBER 2024
DURATION	3 HOURS

INSTRUCTIONS TO CANDIDATES:

1. Answer **THREE** questions in all. **Section A is compulsory. Answer any two questions from section B.**
2. You are advised to read all questions carefully before attempting to answer any.
3. You are advised to cite relevant authorities to support your answers.
4. Write legibly.
5. Candidates may bring into the examination room clean copies of the following:
 - a. **Legal Practitioners Act [Chapter 27:07] and any By-Laws and Regulations made thereunder.**
6. This examination contains 5 pages including the cover page.

SECTION A: COMPULSORY: Answer all questions.

Question One

a) Advocate Ndoro, a seasoned legal practitioner with over 15 years of experience, was retained to represent a prominent businessman, Mr. Chiweshe, in a high-profile fraud case involving allegations of falsified financial documents submitted to secure a multimillion-dollar loan. The matter attracted significant public and media attention due to its implications for the financial institution and Mr. Chiweshe's influential status.

During trial preparations, Mr. Chiweshe confided in Advocate Ndoro during a private consultation, admitting that he had indeed forged the financial documents central to the case. He justified his actions by citing financial pressures and claimed the bank had since suffered no actual loss. However, Mr. Chiweshe explicitly instructed Advocate Ndoro to deny any wrongdoing in court and to build a defence based on the authenticity of the forged documents.

Faced with this revelation, Advocate Ndoro was torn between his duty to his client and his obligations to the court. Ultimately, he chose to comply with Mr. Chiweshe's instructions, maintaining the position that the documents were genuine. He crafted a defence strategy that sought to challenge the bank's evidence and portray Mr. Chiweshe as a victim of procedural irregularities by the bank. Advocate Ndoro did not disclose his client's admission to the court and refrained from advising the court of the forged nature of the documents.

During cross-examination, Advocate Ndoro persistently questioned the credibility of the bank's internal audit processes and attempted to shift the focus from the documents to alleged weaknesses in the bank's due diligence. Meanwhile, the court remained unaware of Mr. Chiweshe's private admission.

i) Evaluate Advocate Ndoro's conduct in light of the ethical duty to the court and principles of honesty and integrity. Refer to case law and statutory guidelines.

[15 Marks]

- b) Lawyer Tapiwa, a dynamic and ambitious young lawyer, who recently completed his pupillage and decided to establish his law practice, focusing on criminal defence. Eager to make a name for himself in a competitive legal market, he turned to social media to market his services. His advertising campaign was vibrant and bold, featuring posts and videos on platforms such as Facebook, Instagram, and TikTok. In his posts, Lawyer Tapiwa claimed to be "the best lawyer in town," stating that no other lawyer could match his expertise or success rate. He emphasized his ability to deliver results, boldly guaranteeing a 100% success rate in criminal cases. These claims were accompanied by testimonials from supposed past clients (which were fabricated), declaring that Lawyer Tapiwa had "saved their lives" with his unmatched legal skills.

To attract clients quickly, Tapiwa introduced a promotion offering discounted rates for the first 10 clients who signed up through his advertisements. The campaign was shared widely, drawing significant attention from the public. Some members of the legal fraternity expressed concern over his tactics, labelling them unprofessional and misleading. However, the posts also generated interest among potential clients eager to take advantage of the discounted rates.

Amid this publicity, Tapiwa received warnings from senior lawyers and his local bar association, advising him to review the ethical rules governing legal practice. Ignoring the advice, he continued the campaign, claiming his approach was simply "modern marketing."

When questioned about his bold claims during an interview with a local radio station, Tapiwa argued that aggressive advertising was necessary to compete in today's world. He insisted that his campaign was innovative and that traditional marketing methods were outdated. However, his statements sparked a debate in legal circles about the balance between self-promotion and ethical practice.

- i) Assess the ethical implications of Lawyer Tapiwa's advertising strategy. Does it align with professional standards? Use case law and ethical rules to support your analysis. **[15 Marks]**

[Subtotal:30 marks]

SECTION B

ANSWER ANY TWO QUESTIONS FROM THIS SECTION.

Question Two

Critically evaluate the ethical considerations involved when a legal practitioner represents multiple clients with potentially conflicting interests. Discuss how such situations should be managed, with reference to legal principles, ethical rules, and case [20 marks]

Question Three

- a) Attorney Gwanda participated in a public protest against a government policy he believed was unconstitutional. During the protest, he made speeches criticizing the judiciary for failing to uphold citizens' rights. Following the protest, the Law Society received complaints that his actions were unprofessional.

Evaluate Attorney Gwanda's actions in the context of a lawyer's duty to the state and public conduct. Support your answer with ethical principles and examples. [10 marks]

- b) Discuss the following legal ethics terms

- (i) Judicial impartiality;
- (ii) Maintenance of trust accounts;
- (iii) Representation of multiple clients;
- (iv) Recusal of a judicial officer;
- (v) Diligence

[10 marks]

[Subtotal:20 marks]

Question Four

- (a) Critically evaluate the requirement for legal practitioners to possess a practising certificate.

Why is this necessary, and what ethical considerations are involved? [10 marks]

- (b) Discuss the principle of attorney-client confidentiality and its limits. Under what circumstances, if any, should a lawyer be permitted or required to disclose confidential client information in the public interest? Use examples and relevant legal standards to support your argument. [10 marks]

[Subtotal :20 marks]

Question Five

Chizikani v The Law Society of Zimbabwe (supra) at 390 C-E where Gubbay CJ (as he then was) remarked that-

“In the first place, lawyers as a professional class live by their own high code of ethics and their own moral standards. Every legal practitioner owes a duty to his colleagues to uphold those standards of the profession to which he belongs. Secondly, if legal practitioners, as a professional group, are to earn a respected position as guardians, not only of public, but also of private, interest, then every legal practitioner must live up to the principles of decency in the relationship of a trustee to the goods and monies entrusted to him by the person who has sought his protection. A legal practitioner who breaches this trust casts a shadow on the good name of the rest, and also remains a danger to the unsuspecting public, unless his name is expunged from the register of legal practitioners. See generally in this regard Law Society, Transvaal v Matthew 1989 (4) SA 389 (T) at 394 B-396 H.”

Critically analyse this statement in the context of the ethical duties of lawyers in Zimbabwe with particular focus to the duty that a legal practitioner owed to colleagues in the profession. Provide examples from case law and statutory provisions to support your analysis [20 marks]

TOTAL EXAM MARKS [70]

END OF QUESTION PAPER