INDIANA UNIVERSITY
MAURER SCHOOL OF LAW
Bloomington

Assignment Memorandum

Date: February 20, 2012

From: Prof. Henderson

To: Legal Professions Class

RE: Mid-Semester Presentations

One of the core competencies of the Indiana Legal Professions course is "how to communicate effectively in various professional contexts" (see p. 12 of course materials). This includes presentations to professional groups, including your peers and colleagues. Like any other competency, presentation skills become better with practice and feedback. The primary purpose of the mid-semester presentations is two-fold: (1) to provide each Practice Group with a low-risk opportunity to collaborative on a legal ethics presentation as a team—i.e., to practice; and (2) for each Practice Group to both give and receive substantive feedback on a Group presentation.

The Problem assignments are as follows:

- Problem 6.11:
- Problem 6.12:
- Problem 6.13:

Practice Group Presentations

You are part of the Young Leaders Division of the Gotham Metropolitan Bar Association. Over the last several years, the Young Leaders Division has become disenchanted with the staid, boring format of continuing legal education (CLE), particularly for legal ethics, which are mandatory for all lawyers. The Steering Committee has enlisted a coterie of division members [your Practice Group] to review/illustrate lawyers' ethics requirements using challenging and realistic hypotheticals. This winter's program is focusing on MR 1.2, 1.4, 1.14, 2.1 and their comments. The Steering Committee created three hypotheticals, assigning your Group one of them. The Committee also provided you with the following written instructions:

> Our audience will have copies of the hypothetical in their CLE packets, but don't assume they have read it (at least carefully). We need your Group to prepare a short presentation (12 minutes max.) that summarizes and explains the ethical dilemma(s) posed by the hypothetical. The Young Leaders Division is placing no restraint on the format of your presentation. You are free to illustrate the problem, offer a potential ethical solution, or both using any medium (lecture, slide show, role play, video, audience interactions) you would like. Use your own judgment in crafting what you believe is an effective and memorable CLE presentation. Keep in mind, however, that the evaluation forms are filed with the

State Supreme Court – we don't want the Young Leaders Division to get low scores.

In addition, the state bar requires that CLE programs include written materials that cover relevant rules and case law. Therefore, in preparation for the program, please write-up a short analysis of your assignment hypothetical (two pages maximum) referring where appropriate to MR 1.2, 1.4, 1.14, 2.1 and comments. [This document is due by 6 pm the night before your presentation. Please submit via email (wihender@indiana.edu).]

As Practice Groups, you can take the words of the Steering Committee literally. There is no penalty for creativity. Outside research is not required nor encouraged.

Four Parts to Assignment

For this assignment, each Practice Group is responsible for four items:

(1) Your own Group presentation, including the written work product referenced above.

(2) Meeting with Professor Henderson and one or two PGAs to discuss and evaluate the presentation of another Practice Group (assigned in table below). The feedback process should be substantially, but not necessarily exclusively, guided by the Group Presentations Grading Rubric (see **Appendix)**.

(3) Preparing and delivering feedback to members of the other Practice Group. This does not require a super-meeting of two Practice Groups. You are free to coordinate the delivery of the feedback in a way your Group considers appropriate and effective, including delivery by a single group member or in writing (query: what would be the most effective?). Do your best to make the feedback timely(schedule in advance?).

(4) Writing a short email to Professor Henderson (wihender@indiana.edu) reporting whether feedback received was valid and/or useful (by Friday, March 23 at 4 pm).

The table below has the presentation and feedback assignments.

Date	Practice Group	Presentation Prob.	Evaluator Group	Debrief with Prof. (Location TBA)
Mon. 3/5 @ 8:25		6.11		6:00 pm
Mon. 3/5 @ 8:40		6.11		6:30 pm
Mon. 3/5 @ 8:55		6.12		7:00 pm
Mon. 3/5 @ 9:10		6.12		7:30 pm
Mon. 3/5 @9:25		6.12		8:00 pm
Tues. 3/6 @ 8:25		6.13		6:00 pm
Tues. 3/6 @ 8:40		6.13		6:30 pm
Tues. 3/6 @ 8:55		6.13		7:00 pm
Tues. 3/6 @ 9:10		6.13		7:30 pm

As you can see, the above table is tightly timed. Time your presentations in advance; presentations longer than 13 minutes will be cut short. Note also, on March 5 and 6, students are encouraged but not required to watch all the Group presentations. You are only required to attend your presentation and the presentation of the Group you are evaluating. You will only be permitted to enter and exit, however, between presentations. To be late is to not participate.

This assignment also includes an out-of-class debriefing session where we (your Group, one or two PGAs, and I) can discuss the presentation of your assigned Group. The PGAs and I will participate, but we are not running these meetings – you are. The meeting can last no more than 25 minutes. Your Group is then responsible for organizing and communicating these impressions to the members of your assigned Group in an timely and effective manner. It may be a good idea to schedule that in advance.

The PGAs and I are responsible for distilling down a set of concrete elements that were often present in the most memorable and effective presentations. This should help you with your Graded Group Presentation in April. We will share these observations with the class on Wednesday, March 7th.

Guidance on Specific Problems

All three of the mid-semester problems deal with client counseling. The relevant Model Rules are 1.2, 1.4, 1.14, and 2.1 (comments are relevant for all Rules). Certain readings from Chapter 6 may be especially helpful:

- 6.2 "A Primer on Attorney-Client Paternalism" lays out the debate on this topic. Each of the problems requires you to grapple with how you might come down on this seemingly irresolvable debate.
- 6.3 "A Primer on Counseling" (Weng) contains a vocabulary and several frameworks for analyzing the lawyer-client counseling relationship.
- "A Primer on Interviewing" (Weng), which is posted in the Week 6 Resources section of OnCourse, provides ways to break down and analyze your Group's problem.

Below are some pointers and tips for specific problems:

6.11. Example: Under the Influence.

This hypothetical deals with the counseling dynamics between an estate planning lawyer and an elderly client ostensibly wishing to change her estate plan. The lawyer urges the client to take steps that he believes are in her best interests. After interactions with the client's family, the lawyer receives notification that he has been fired.

You have 12 minutes to illuminate the ethical issues in this problem. One possible approach to take is to critique the lawyer's interview style. E.g., Did he satisfactorily identify the client goals and objectives? See MR 1.2 and comments. Did he ask the right kind of questions—leading versus open-ended? What information seems relevant but remains unknown? Is he being too directive, or is he just fulfilling his obligations under MR 1.2? (Regarding MR 1.2, you might want to discuss as a Group your own honest, candid views of the situation). Can your

Group suggest a better strategy? Is this a case of potential elder abuse? Finally, is termination of the ACR necessarily a bad outcome?

The above remarks are just a primer. Feel free to go in your own direction.

6.12. Example: Death Row Volunteer

In this hypothetical, you are asked to provide advice to a law school classmate who is working on a pro bono case for the California Capital Defense Project. The criminal defendant has expressed the desire to drop all appeals, thereby expediting the execution date. The CCDP, which is financing the case, believes that the defendant received an unfair trial, especially during the penalty phase when the defendant was given a death sentence.

You have 12 minutes to illuminate the ethical issues in this problem. One possible approach to pursue is the client identity and capacity issues (MR 1.2 and 1.14). On a related note, what is the scope of the representation? Do the Model Rules acknowledge a place for viewpoint of a public interest organization that represent individual clients but are organized and financed to advocate for specific causes and outcomes? Cf. 3.8 Example: Trusts & Estates: Who is the client? (exploring interests of family unit when counseling a husband and wife who are not in complete agreement on an estate plan). Note that the hypothetical states, “The only governing law is the ABA Model Rules.” What advice is warranted under the Model Rules? Does your friend have any latitude or discretion?

The above remarks are just a primer. Feel free to go in your own direction.

6.13. Example: Tram Nguyen’s Case

[For the purposes of the mid-semester exercise, you may follow or disregard the instructions in the first and last paragraph of 6.13. The only instructions you have is to analyze the ethical duties and implications of Ms. Nguyen’s case.]

In this hypothetical, you have a client, a Vietnamese women, who is charged with a criminal misdemeanor (leaving the scene of a crime). Based on physical evidence and your interactions with the client, you believe she is innocent. Yet, due to some communication issues (your client speaks only broken English) and possible racism, police and prosecutors appear to have sided with the other driver involved in the accident. Your fees are being paid by your client’s sister-in-law. Without much consultation or analysis, your client is inclined to follow your advice or the views of her sister-in-laws.

You have 12 minutes to illuminate the ethical issues in this problem. One tact to take is to analyze the agendas of the many people who, directly or indirectly, have sway in the case: the prosecutor, the judge, the law firm partner, the sister in law. What is important from Ms. Nguyen’s perspective? If you don’t know, what questions might you ask to find out? How might the answers influence your advice?

The above remarks are just a primer. Feel free to go in your own direction.

Appendix

The Legal Profession (B614).

Group Presentations Grading Rubric[i]

Spring 2012

Exemplary: Score 2 for each criterion met.	**Competent:** Score 1 for each criterion met.	**Developing:** Score 0 for each criterion met.
Content: Does the content support the purpose of the presentation and the needs of the audience?		
o Law, competencies, and concepts are presented accurately o Law, competencies, and concepts are presented in sufficient detail or are explored in sufficient depth (given time constraints) to support the objective of the presentation o Additional materials, including visual aids, complement the presentation and its objective o Objective of the presentation is easily identified o Questions are answered knowledgeably, thoroughly, and concisely	o Law, competencies, and concepts are presented with only minor inaccuracies o Law, competencies, and concepts are presented in detail or are explored in depth (given time constraints) but do not fully support the objective of the presentation. E.g.: rules not adequately elaborated, examples not sufficiently specific o Additional materials, including visual aids, mostly complement the presentation and its objective o Objective is not immediately clear o Questions are answered with some difficulty	o Law, competencies, and concepts are presented with major inaccuracies o Law, competencies, and concepts are presented superficially, without adequate explanation or exploration, or in areas that are not responsive/applicable to the problem o Additional materials, including visual aids, detract from the presentation and its objective o Objective is difficult to determine o Questions are not answered accurately, thoroughly, or knowledgeably
Structure: Does the organization reflect the purpose of the presentation and the needs of the audience?		
o Presentation organized according to audience's needs, with clear relationship between ideas (e.g., opening, body, and conclusion; chronology; thematic narrative) o Strong introduction and conclusion (clearly conveys objective of the presentation and summarizes the intended lessons)	o Organization is evident but may be undermined by weak transitions or occasional digressions o Introduction or conclusion mostly accomplishes its intended function	o Organization is confusing or unclear o Weak introduction or conclusion

Performance: How strong is the presentation qua presentation?		
o Most speakers are fluent and poised o Most speakers use language comfortably and appropriately o Most speakers speak at an effective rate and volume o Eye contact is appropriate for audience o Use of space appropriate for the situation o Visual aids are designed effectively o Speakers use visual aids easily o The Q&A process is handled smoothly	o Some speakers display some degree of nervousness (reading, fillers, hesitations) o Some speakers have minor problems with language usage (includes unfamiliar or too much jargon) o Some speakers may speak too slowly or quickly, too loudly or softly o Eye contact may be slightly too much or too little o Speakers may be moving around a little too much or not quite enough o Visual aids demonstrate a few weaknesses in design o Speakers have a few difficulties with use of visual aids o The Q&A process has some problems (e.g., confusion as to who is answering)	o Most speakers seem uncomfortable o Speakers display several problems with language usage o Most speakers speak much too slowly or quickly, too loudly or softly o Not enough eye contact o Inappropriate use of space o Visual aids demonstrate some weaknesses with design o Speakers have difficulties with use of visual aids o The Q&A process has substantial problems (e.g., hostility displayed)

[i] Adapted from rubric for Management Communication for Undergraduates (15.279), Sloan School of Management, Massachusetts Institute of Technology, 1999, available at http://web.mit.edu/tll/teaching-materials/rubrics/index-rubrics.html.