



1983

University of Baltimore Law Forum Volume 14 Number 1 (Fall 1983) Front Matter

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Recommended Citation

(1983) "University of Baltimore Law Forum Volume 14 Number 1 (Fall 1983) Front Matter," *University of Baltimore Law Forum*: Vol. 14: No. 1, Article 1.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol14/iss1/1>

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The
LAW
FORUM

Fall, 1983

The University of Baltimore School of Law



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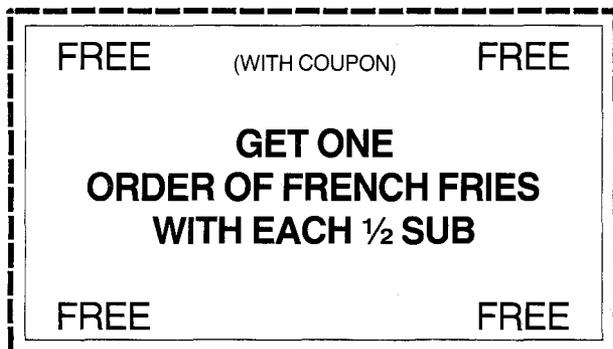
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University of Baltimore School of Law,
Law Center, 1420 N. Charles Street,
Baltimore, Maryland 21202. (301) 625-3148.

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FROM THE BOARD

Last summer in Atlanta at its Annual meeting, the American Bar Association's House of Delegates adopted new Model Rules of Professional Conduct. Now it is up to the individual states to decide whether to adopt the new Rules in whole or in part, or not at all. Maryland has already begun this process. The Special Committee on Professional Responsibility, an on-going committee of the Maryland State Bar Association, has been charged with the task of studying the new Model Rules and making recommendations to the MSBA as to their adoption.

In a future issue, THE LAW FORUM plans to publish an analysis of the new Model Rules. In the meantime, however, we are pleased to devote this issue to the timely subject of ethics and professional responsibility and, particularly, to some of the more philosophical considerations that the subject raises. For example, Thomas L. Shaffer, a nationally recognized authority on the subject of professional responsibility, discusses *The Professional Responsibility of Teachers of Professional Responsibility*. And, in what is the first of what we hope will be many future point/counterpoint debates to appear within our covers, we present two sides to the controversial issue of lawyer advertising.

It often seems that the subject and practice of professional responsibility are forgotten along the wayside. This disregard is a disservice to the legal community and to the public. Professor John A. Lynch, ends his article on lawyer advertising with a thoughtful comment which emphasizes the need for lawyers to adhere to the spirit and not merely the letter of the Code of Professional Responsibility. He states:

Many come to law school with very high ideals and a sincere desire to serve the public interest. Many maintain this spirit. If they are bombarded with huckstering about "The Game of Law," they may decide that the law is not the game for them.

It is our purpose in devoting this issue of THE LAW FORUM to provide, as our name suggests, a forum for ideas—some mainstream and some, perhaps, controversial. Now, more than ever, when the bar is considering the adoption of a new code of conduct, we should devote ourselves to careful thought and analysis of what our professional objectives are or should be, and what responsibilities we must bear.

The Editorial Board

Dear Editor:

"Dr." James R. Bell's article entitled, "My Son the Lawyer Doctor," appearing in *The Law Forum* of Spring, 1983, is interesting but somewhat misleading.

Undoubtedly, Disciplinary Rule 2-102 (E) of the Model Code of Professional Responsibility permits a lawyer to use, in connection with his name, an earned degree or title. Hence, as "Dr." Bell points out, a lawyer upon whom a Juris Doctor or other doctorate degree has been conferred may style himself or herself as "Dr." instead of Mr., Mrs., Miss or Ms. That is true, however, only in those areas where the Model Code is applicable.

The current Maryland version of the Code of Professional Responsibility (see Md. Rule 1230 and Appendix F of the Maryland Rules) does not contain a DR 2-102 (E) nor does it mention the use of earned degrees in connection with a lawyer's name.

Prior to 1978 when the Court of Appeals adopted the rules applicable to lawyers advertising, the Maryland version of the Code of Professional Responsibility tracked DR 2-102 (E). With the advent of the advertising rules came the disappearance from Maryland of DR 2-102 (E).

Inasmuch as the DR 2-102 (E) is not presently applicable in Maryland, the use of the title "Doctor" by a lawyer who has a J.D. or other doctorate is questionable. The prudent lawyer will shun its use. I shall, therefore, continue to refer to my sons as The Doctors Lawyers.

Richard P. Gilbert
Chief Judge

Court of Special Appeals of Maryland



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FROM THE DEAN'S OFFICE

Not everyone likes lawyers! The hate-the-lawyer cult existed from time immemorial. William Shakespeare, in *King Henry VI*, said: "The first thing we do, let's kill all the lawyers." In spite of this foreboding, the legal profession has flourished into a permanent institution resented by many, but one the public cannot do without in a democratic society.

This hostility to the legal profession existed in Maryland and was not merely confined to other colonies prior to the Revolutionary War of 1776. The Maryland Act of 1674 alleged that the "good people of this Province are much burthened" by lawyers exacting "excessive fees." In 1704, the Maryland Legislature established rules to control the admission of attorneys to the practice of law because of the alleged "corruption, ignorance and extortion" of some members and fixed ceilings on fees to be charged. Several attorneys withdrew from the practice to protest this legislation. Fortunately, the fee restriction was abrogated in 1729. In the interim, law was being shaped by the clergy, politicians and laymen.

One interesting observation is that, until recently, law schools did not require and give adequate consideration to the ethics that should govern the conduct of lawyers in their relationships with clients, other lawyers, courts and society. This change has come about primarily because of the Watergate scandals of 1972. Law schools, both voluntarily and involuntarily under pressure from the American Bar Association, now require instruction in the duties and responsibilities of the legal profession in the curricula of all law schools. Surprisingly, this is the only course that is specifically mandated by the American Bar Association to be taught in all accredited law schools. The other standards speak in terms of offering subjects generally regarded as the core of the law school curriculum and training in professional skills.



Walter A. Rafalko, *Professor and Associate Dean*

Justice is "right," and the lawyers are guardians of those rights and are obligated to protect those rights by maintaining the highest standards of moral conduct. The American Bar Association Code of Professional Responsibility provides minimum standards to judge transgressors and leaves it to each lawyer's conscience to exceed the minimum standards. The time has come to spell out with greater definitude and objectivity the highest possible degree of ethical conduct, if the law is to succeed as a noble profession and attain the respect of the general public.

This issue of the LAW FORUM focuses in on and tackles some of the timely topics of professional responsibility and legal ethics. These articles and comments should persuade lawyers and especially law students that the subject-matter is an on-going study which

has deep philosophical considerations. The FORUM's Ethics articles—*Professional Responsibility of Professional Responsibility Teachers*, *Lawyer Advertising (Pro and Con)*, *The Attorney Grievance Commission: Its Purpose and Objectives*, *Attorney Compensation in Bankruptcy: The Ethical Obligation*, and other articles and comments are challenging topics but at the same time interesting and beneficial ones to all persons interested in the field of professional responsibility and legal ethics. They are topics which the bench, bar, faculty and students should give meaning to when considering the disciplinary rules and ethical considerations of The Code of Professional Responsibility. If professional responsibility and ethics are given meaning, society will benefit and the legal profession will be spared some criticism.

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