

# Lawyers' Ethics and Professional Regulation, 4th Edition – What's New

## Chapter 1: Introduction to Legal Ethics – Alice Woolley

- Uses the Supreme Court's decision in *Groia* to introduce lawyers' ethic and professional regulation

## Chapter 2: The Lawyer-Client Relationship – Richard Devlin & Pooja Parmar

- Update of material on lawyer advertising with new examples and to include discussion of advertising practices by criminal defence lawyers
- Incorporation of problems addressing issues raised by lawyer marketing during the COVID pandemic and using social media
- Additional scenarios related to client selection and discrimination
- Incorporating updated case law and materials related to the lawyers' duty of competence in the context of Indigenous clients and the legal system, criminal law, domestic violence, and Trans clients and law
- Consideration of new duties of technological competence
- The effect of the Truth and Reconciliation Commission of Canada Calls to Action on lawyers' ethical duties, particularly in relation to competence
- Expanded discussion of ethical issues related to lawyers' mental health, including new discussion related to lawyer wellbeing
- Consideration of the Supreme Court's decision in *Salomon v Matte-Thompson*, [2019] S.C.J. No 14, 2019 SCC 14 with respect to the lawyers' duties to advise clients

## Chapter 3: The Lawyer's Duty to Preserve Client Confidences – Amy Salzyn

- Updated explanation of the differences between solicitor-client privilege and the lawyer's duty of confidentiality
- Additional discussion of when the lawyer's duties of confidentiality and privilege arise
- Additional discussion of the doctrine of waiver in relation to solicitor-client privilege
- New discussion of solicitor-client privilege and confidentiality in the context of law society investigations

## Chapter 4: The Duty of Loyalty and Conflicts of Interest – Brent Cotter

- New notes and questions considering the Supreme Court's 2019 decision in *Salomon* and the Ontario Court of Appeal's 2017 decision in *R v Baharloo*
- New analysis of access to justice exceptions to the code of conduct provisions related to former-client conflicts of interest

## **Chapter 5: Ethics in Advocacy – Trevor C.W. Farrow**

- Expanded analysis of the role of the advocate in light of issues related to access to justice, non-adversarial advocacy, the role of lawyers in the residential school litigation, and societal concerns regarding equality, diversity and inclusion
- Expanded consideration of the duties of lawyers in matters involving self-represented litigants, including discussion of the Ontario Court of Appeal’s decision in *Girao v Cunningham*, 2020 ONCA 260
- New analysis of the duties of lawyers as advocates where litigation includes e-hearings or electronic documents
- Incorporation of the Supreme Court’s decision in *Groia* on the advocate’s duty of civility
- Problems and questions related to the decision in *Law Society of British Columbia v Ahuja* with respect to misleading the Court

## **Chapter 6: Counselling and Negotiation – Stephen G.A. Pitel**

- Expanded analysis of the lawyer’s ethical duties when counselling clients

## **Chapter 8: Government Lawyers – Adam Dodek**

- New consideration of the ethical duties of government lawyers in the context of implementing the Truth and Reconciliation Commission’s Report
- New consideration of the duties of lawyers when providing advice to Parliament on the constitutionality of proposed legislation, including the case of *Schmidt v Canada (Attorney General)*, 2018 FCA 55

## **Chapter 9: In-House Counsel and Their Unique Considerations – Basil Alexander**

- New chapter on the ethical duties of in-house counsel, including materials, analysis and problems related to the unique ethical challenges and specific ethical responsibilities of lawyers employed by their client

## **Chapter 10: Challenges for Lawyer Regulation: Ensuring Lawyers’ Ethics – Alice Woolley /**

## **Chapter 11: Challenges for Lawyer Regulation: Access to Justice – Jamie Baxter /**

## **Chapter 12: Challenges for Lawyer Regulation: Current Issues and Debates – Noel Semple**

- Reorganized and expanded chapters on the regulation of lawyers, including new and additional materials, analysis and problems related to regulation of legal education (the Supreme Court’s decision in *Trinity Western*), sexual harassment, lawyers’ fees, family law practice, diversity, equality and inclusion, compliance-based regulation, alternative business structures and technological competence
- Discussion of access to justice issues specific to Indigenous people, including the Supreme Court’s 2020 decision in *Newfoundland and Labrador (Attorney General) v Uashaunnuat (Innu of Uashat and of Mani-Utenam)*

### **Chapter 13: Judicial Ethics – Richard Devlin & Adam Dodek**

- Incorporation of the substantially revised Ethical Principles for Judges released by the Canadian Judicial Council in 2021, including critiques and analysis
- Additional problems to allow students to engage with problems related to judicial conduct and ethics
- New problems and materials related to judges' duties regarding civility, respect and confidentiality; judges and social media; judges returning to practice; judicial engagement with charities and community activities; and, judicial education