

MPRE Key Words and Phrases

Each question contained in the MPRE may include, among others, one of the following words or phrases:

- (1) “Attorney” usually refers to the particular lawyer whose conduct is at issue. “Lawyer” in the same question usually refers to a different lawyer whose conduct is not at issue. Specific functional names for a lawyer, e.g., “litigator,” “judge,” “managing partner,” “associate,” “prosecutor,” etc., may also be used if those names do not create ambiguity.
- (2) “Subject to discipline” asks whether the conduct described in the question would subject the attorney to discipline under the provisions of the ABA Model Rules of Professional Conduct. In the case of a judge, the test question asks whether the judge would be subject to discipline under the ABA Model Code of Judicial Conduct.
- (3) “May” or “proper” asks whether the conduct referred to or described in the question is professionally appropriate in that it (a) would not subject the attorney or judge to discipline; (b) is not inconsistent with the preamble, comments, or text of the ABA Model Rules of Professional Conduct or the ABA Model Code of Judicial Conduct; and (c) is not inconsistent with generally accepted principles of the law of lawyering.
- (4) “Subject to litigation sanction” asks whether the conduct described in the question would subject the attorney or the attorney’s law firm to a sanction—such as a fine, fee forfeiture, punishment for contempt, or other sanction—by the relevant tribunal.
- (5) “Subject to disqualification” asks whether the conduct described in the question would subject the attorney or the attorney’s law firm to disqualification as counsel in a civil or criminal matter.
- (6) “Subject to civil liability” asks whether the conduct described in the question would subject the attorney or the attorney’s law firm to civil liability arising from, for example, claims of malpractice, misrepresentation, or breach of fiduciary duty.
- (7) “Subject to criminal liability” asks whether the conduct described in the question would subject the attorney to criminal liability arising from, for example, prosecution for insurance or tax fraud, destruction of evidence, or obstruction of justice.
- (8) “Disciplinary authority” refers to the appropriate entity in the jurisdiction with authority to enforce the rules of professional conduct.
- (9) “Lawyer-client relationship” and “client-lawyer relationship” are used interchangeably and have the same meaning.