

PROFESSIONAL ETHICS

SEMESTER- VIII (B.Com LL.B.)

DATE- 11.04.2020

SUBJECT- Professional Ethics, Accountability for Lawyers & Bar Bench Relation (Clinical Course)

TOPIC- Duties of an Advocate (Part 2)



Duties of an
Advocate


Duty to the
Clients

DUTY TO THE CLIENTS

{Rule 11-33}

A client is entrusting a case with an Advocate because of his trust and confidence on him. In order to honour this trust and confidence the Bar Council of India rules 11-33 prescribes the following duties as duty to the client.

1. An Advocate is bound to accept a case in the courts or tribunals where he is normally practicing.
2. He shall not withdraw from a case which he has already accepted without sufficient reasons. He shall not withdraw from the case merely because his fees has not been paid in full. He shall withdraw from the case only after giving a reasonable notice to his client. After his withdrawal he must refund such part of the fees which is in excess in his hand.



3. He shall not accept a case in which he has reason to believe that he will be called as witness. If he already engaged in a case in which he is called as a witness then he should return the case. But, if his retirement will cause irreparable loss to the client then he can continue to appear as a lawyer.

4. He must make full and frank disclosures to his client relating to his connection with the parties and his interest in the controversy which may likely to affect his clients interest.

5. He should fearlessly uphold the interest of his client by fair and honourable means without the fear of any pleasant consequences to himself or to any other person. He shall not refuse to appear for an accused person merely because in his personal opinion the accused has committed the offence.



6. An Advocate appearing as a prosecution counsel shall be fair and shall not conduct the prosecution with hostility to the accused to secure conviction. He should not obstruct the defence counsel in placing the relevant material evidence to prove the innocence of the accused.

7. He shall not disclose any matter communicated to him in his professional capacity to any other person without the consent of his client.

8. He shall not be a party to fomenting of litigation.

9. He should act at the instructions of his client and not at the instruction of any other person.




10. He shall not stipulate a fee depending on the success of the case or agree to share the proceeds of the litigation.

11. He shall not buy or agree to share the interest of the litigation.

12. He shall not directly or indirectly bid or purchase in his own name or in any other name any property sold in execution of a decree in which he was engaged as a lawyer.

13. He shall not adjust fees payable to him by his client against his own personal liability to the client.

14. He shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by the client.




15. He should keep regular accounts of the clients money entrusted to him. The account should show the particulars of the amount received from the client and the expenses incurred for him.

16. He should maintain separate accounts for the amount received for the fees and for the expenses. The amount received for the expenses shall not be converted for fees without the consent of the client.

17. Where any amount received on behalf of the client (either from the court or from any other person) it should be intimated to the client as early as possible.

18. After the proceedings are over, he shall take the settled fee from the client's money in his hand and the balance, if any should be returned to the client.



19. If the Advocates fee is left unsettled, he shall take a reasonable fee from the client's money in his hand, after the proceedings are over.

20. A copy of the clients account shall be furnished to him on demand.


21. He shall not convert the client's money in his hand as loan given to him by the client.

22. He shall not lend money to his client for the purpose of any legal proceeding in which he is engaged as the lawyer. But, any amount given to his client in an unanticipated emergency shall not be treated as breach of this duty.

23. An Advocate who has advised or prepared the pleadings or appeared for a party in any suit or appeal shall not act, appear or plead for the opposite party.



In addition to the above duties prescribed by the Bar Council of India an Advocate is expected to perform the following duties also to the client.

1. He shall give advise to his client honestly and in good faith.
 2. He shall prepare the case with due care and skill.
 3. He shall submit all relevant documents before the court in support of the claim of his client.
 4. He should attend the court on every day fixed for hearing of his client's case.
 5. He should return the whole fees received from his client, if he is not in a position to conduct the case.
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THANK YOU !!