

## How to Approach an MPT Problem

### Background Information

Depending on your state, you may have one or more MPT problems. MPT problems test your ability to do the following:

- 1- Follow directions;
- 2- Read and understand rules, statutes, regulations, committee notes, etc., and break them down into their elements;
- 3- Read and understand case law to do one or more of these things:
  - a. Extract legal principles; and
  - b. Identify legally significant facts; and
  - c. Identify how your fact pattern is either similar to or different than the legally significant facts of the case law;
- 4- Read and extract the facts of the problem from a variety of sources such as depositions, memos, attorney notes, etc.
  - a. Distinguish relevant facts from irrelevant facts
  - b. Understand how the facts speak to different elements of the law;
- 5- Utilize the facts to analyze the law and reach a legal conclusion or prepare legal arguments;
- 6- Prepare a written legal answer that responds to the task of the problem.

### Steps to Successfully Completing an MPT Problem

#### **Step 1: Identify the task.**

Each MPT Problem will contain a File and a Library. At the beginning of the File, you will typically find a memorandum addressed to you, the “Applicant.” This memorandum (the “Assignment Memo”) will provide you with an overview of the problem and specifically tell you your task. Be sure to read this memorandum carefully to determine exactly what it is you are being asked to do. For example, are you being asked to prepare a whole memorandum, or just the analysis section? Are you being asked to draft a statute? A contract provision? You will typically be asked to prepare an analysis and or present the arguments that can be made on one or more sides. Any sort of analysis or arguments must be presented in the IRAC format. Be sure you understand what the bar examiners want you to prepare and prepare only that. If there are any guidelines for your task, i.e. use headings, be sure to note that as well. It is helpful to circle, underline, or highlight the task and or any guidelines from the memo in case you need to refer back to it.

#### **Step 2: Identify the issue or issues and begin your outline.**

The Assignment Memo will tell you the issues you need to address. At this point, you will want to begin your outline. On a blank piece of scratch paper (scratch paper will be provided to you in the exam), write a roman numeral one and write out the first issue. If there is a second issue, on another blank piece of scratch paper (or on the back of the first piece of scratch paper), write a roman numeral two and write out the second issue. You’ve now completed the outline for the “I” section of your IRAC.

For example, you might write something like this on your scratch paper:

(PAGE 1)

- I. Is Walker required to disclose her communications with Hammond under the Franklin Rules of Professional Conduct? Goal is NO.  
(PAGE 2)
- II. Is Walker required to disclose her communications with Hammond under the Franklin Rules of Evidence? Goal is NO.

The roman numerals and issues can serve as headings in your final product to provide organization to your writing.

**Step 3: Identify the law and put it in your outline.**

Once you've read the Assignment Memo, jump to the Library. For each issue in your problem, you will be given law that will allow you to address that issue. First, read any statutes or rules and any accompanying committee notes on those statutes or rules. Second, read any regulations. Third, read any cases in order of oldest to most recent. As you read each item in the Library, break it down into its black letter law and put it in your outline. Be sure to synthesize statutes, rules, committee notes, regulations, and case law to put together the complete black letter law for the particular issue. For outlining the law, you should use what is called, a "T-Chart." A T-Chart is a way to organize the law that allows you to easily match up the facts to the law on a particular issue. A T-Chart will eventually include the law and the facts, and looks like this:

LAW	FACTS
Communications must be confidential -Between lawyer and client -For purpose of representation	
Confidential communications may be disclosed if one of these: <ol style="list-style-type: none"> <li>(1) client gives informed consent</li> <li>(2) disclosure is impliedly authorized to carry out representation</li> <li>(3) to prevent, mitigate, or rectify substantial injury to the financial interest or property of another that                             <ol style="list-style-type: none"> <li>a. is reasonably certain to result or has resulted</li> <li>b. from the client's commission of a crime or fraud and</li> <li>c. for which the lawyer's services were used</li> </ol> </li> </ol>	

At this point, just fill-in the law on the left-hand side and feel free to use abbreviations and short-hand writing so long as you can understand it when it comes time to write. You will fill-in the right-hand side in Step 4. I've completed the chart for the law to illustrate what your T-Chart might look like for one issue upon completing Step 3. You must prepare a T-Chart for each issue and complete the left-hand side of each T-Chart for each issue in your problem.

**Step 4: Read and filter through the facts and put them in your outline.**

Now that you know the law, you will read the facts with an eye towards how the facts speak to the law. As you read and identify facts that speak to a particular point of law, put that fact on the right-hand side in your T-chart(s).

LAW	FACTS
<p>Communications must be confidential</p> <ul style="list-style-type: none"> <li>-Between lawyer and client</li> <li>-For purpose of representation</li> </ul>	<p>Hammond hired Walker as his lawyer and the communications occurred between them so she could represent him in connection with his building damage.</p>
<p>Confidential communications may be disclosed if one of these:</p> <ol style="list-style-type: none"> <li>(1) client gives informed consent</li> <li>(2) disclosure is impliedly authorized to carry out representation</li> <li>(3) to prevent, mitigate, or rectify substantial injury to the financial interest or property of another that               <ol style="list-style-type: none"> <li>a. lawyer believes is necessary to disclose</li> <li>b. is reasonably certain to result or has resulted</li> <li>c. from the client's commission of a crime or fraud and</li> <li>d. for which the lawyer's services were used</li> </ol> </li> </ol>	<p>"may" = permissive – not required</p> <p>Hammond specifically asked Walker not to disclose so no informed consent.</p> <p>Hammond specifically asked Walker not to disclose so no implied authorization – affirmative denial of authorization.</p> <p>Only possible injury is if he filed a fraudulent insurance claim</p> <p>Walker doesn't want to disclose so clearly she doesn't think its necessary</p> <p>Filing of claim has not resulted and not reasonably certain to result – Walker told Hammond filing claim may lead to criminal charges – not known if Hammond started the fire or will file claim, just speculative</p> <p>Burning of building not arson because not property of another. Filing of fraudulent insurance claim is only possible crime that may be committed.</p> <p>Hammond has not used Walker to file a fraudulent insurance claim</p>

**Step 5: Review your outline.**

At this point, you should have a completed T-Chart for each issue. Review your T-chart(s) to make sure you have used all possible facts and addressed all issues. Fill-in any gaps or add any other ideas you want to discuss to your outline. For example, if there are policy points to be made, add those to your outline. If there's a question of whether case law applies or not, be sure to notate the issue so

you don't forget to discuss it. Also, if there are case comparisons you want to make, add those to your outline as well.

**Step 6: Begin writing.**

This is the easiest step to complete because you've already done all the work of reading and understanding the law and facts and matching the facts to the law. Allow yourself at least 35 minutes to write the answer. The majority of your time will be spent on Steps 1 through 5. All you have to do now is write-out the information in your outline in complete sentences. Be sure to utilize headings to break out the issues. Be sure to follow IRAC.