Course Description

As the course name suggests, we will discuss both legal ethics – in particular, the rules that govern lawyers’ conduct – and professionalism – what it means, more generally, to be a “good” lawyer. This is not an MPRE preparation course, but we will focus on the concepts embodied in the Model Rules of Professional Conduct, on what they require, permit, and exclude. We will spend most of our time in class discussing actual problems that lawyers have and will continue to confront in the practice of law. The hope is to give you the chance to think through and prepare for how you will approach the ethical quandaries that will unavoidably face you in your own career.

Required Reading

Lerman and Schrag, Ethical Problems in the Practice of Law (Second Edition 2008).

Gillers, Regulation of Lawyers: Statutes and Standards 2009

Additional materials will be handed out in class or posted on TWEN.

Schedule and How to Reach Me

We will generally meet on Tuesdays and Thursdays from 4:30 to 5:45, subject to the need to reschedule class sessions. I am happy to meet with you before class, after class, or by appointment. To schedule an appointment, please call my assistant, Holly Cody, at (303) 335-2800.

Grades, Class Attendance, and Class Participation
Your grade will be calculated as follows: final exam 80% (approximately); class participation and attendance 20% (approximately). Most of our class time will be spent discussing problems, cases, and hypotheticals. For this class to work, it is essential that you complete the reading assignments before each session and attend prepared to discuss them. This class will work best if everyone is an active participant, and participation is obviously a significant grading factor. In addition, you will be “on call” at various points during the semester. On the days you are on call, you will be expected to answer questions and participate actively in class discussions.

Preliminary Schedule (subject to revision during the course of the semester)

The Regulation of Lawyers: An Overview

1. Introduction, institutions that regulate lawyers, admission to practice, the character and fitness inquiry; on-call assignments determined

   Reading: 1-38, 45-59; skim Model Rules of Professional Conduct

2. The law governing lawyers, admission to practice, continued

   Reading: 34-44, 59-71

Lawyer Liability

3. Professional discipline, reporting misconduct by others

   Reading: 73-110; Model Rules 5.1-5.3, 8.3; The Fall of America’s Meanest Law Firm

4. Professional discipline, protection for subordinate lawyers, civil and criminal liability, client funds

   Reading: 110-149

The Rule of Confidentiality

5. The duty to protect client confidences

   Reading: 151-169; Model Rule 1.6
6. Exceptions to the rule


**From Confidentiality to Privilege**

7. Confidentiality and its exceptions, continued

Reading: 187-213; Model Rules 1.0(f), 1.2(d), 1.6(b), 1.16(a) & (b), 3.3, 4.1, 8.4(c)

8. Confidentiality and privilege compared; the elements of the attorney-client and work product privileges

Reading: 215-263; *60 Minutes Reports Legal Ethics Head-Scratcher*

**Duties to the Client**

9. Formation of the attorney-client relationship

Reading: 265-284; Model Rules 1.1., 1.3, 1.4, 6.2

10. Duties of competency, honesty, communication, and diligence

Reading: 284-320; Model Rules 1.0(d), 1.2, 1.4, 1.16(b), 2.1, 8.4(c); *Bribery Case Brings Down Legal Legend*

**From Duties to the Client to Conflicts with the Client**

11. Who Calls the Shots?

Reading: 321-350; Model Rules 1.2, 1.4, 1.14, 1.16

12. General principles in evaluating conflicts

Reading: 351-377; Model Rule 1.7, 1.10

**Conflicts: Specific Applications**
13. Conflicts between clients and positions

   Reading: 378-389; Model Rule 1.7, 1.10

14. Conflicts: representing organizations, co-defendants, family members, insured and insurers, and other scenarios

   Reading: 391-433; Model Rule 1.7, 1.10, 18(f)

Conflicts Involving Former Clients

15. Conflicts: duties to present and former clients

   Reading: 435-459; Model Rules 1.7, 1.9, 1.10; Analytica v. NPD Research; Chong v Kallins

16. Conflicts wrap up

   Reading: 459-481; Model Rules 1.7, 1.9, 1.10

Legal Fees: Conflict in Another Sphere?

17. Fees: conflicts between lawyers and their clients

   Reading: 483-506; Model Rules 1.4, 1.5, 7.1, 8.4; A Disputed Fee; Free: Ex-Sullivan Partner Resigns Over $500,000 in False Billings

18. Legal Fees, continued

   Reading: 506-536; Model Rules 1.4, 1.5, 1.8, 1.16(d), 5.2, 7.1, 8.3, 8.4; Beat the Clock: A Boston Firm Says No to Billing by the Hour, and its Clients Say They Are Pleased

Fee Disputes and Advertising

19. Fee Disputes

   Reading: 537-561; Model Rules 1.5, 1.7, 1.8, 1.10, 1.15, 5.2, 5.4, 8.3
20. Advertising

Reading: 791-836; Model Rules 5.4, 5.5, 7.1-7.5

Duties to Your Good Name, Your Adversary, and the Court

21. Being an adversary without being adversarial

Reading: 593-624; Model Rules 1.2, 1.16, 3.1, 3.3, 3.8, 4.4, 8.4(c); Law Firm Sued Over Forgery by Attorney

22. Truth and Falsity in Litigation

Reading: 624-643; Model Rules 3.3, 3.4, 4.1, 7.1, 8.4

Duties to Your Good Name, Your Adversary, and the Court, continued

23. The duty to disclose

Reading: 643-689; Model Rules 3.3-3.9, 4.1, 4.4, 8.4(c); Qualcomm Lawyers Taken to the Woodshed Over Discovery Conduct; Bogus Claim of Privilege in Qualcomm Case

24. Communications with lawyers and third parties

Reading: 689-730; Model Rules 3.8, 4.1-4.4, 8.4

The Practice of Law Today

25. Pressures of modern practice

Reading: 731-790; The Clifford Chance Memorandum from its Associates to its Partners; Par’s Mythbusters

26. Provision of Legal Services

Reading: 819-872; Model Rules 5.3, 6.1, 6.2

Our Profession Revisited

27. TBA
28. Wrap-up/review