COURSE INFORMATION AND SYLLABUS

1. Materials.


(b) Any recent rules supplement containing the ABA Model Rules of Professional Conduct.

2. Goals of the Course and Methodology.

I have the following goals for the course:

(a) to teach the basic rules and doctrines of professional responsibility that you will need to practice law and to pass the Multistate Professional Responsibility examination. The problems that we will be considering in class will require you to develop a working knowledge of these rules and doctrines.

(b) to enable you to think critically about what it means to be a professionally responsible lawyer.

(c) to make the course interesting. To accomplish this goal, I plan to use a variety of teaching techniques, time permitting: lecture, discussion of typical MPRE questions, class discussion of realistic problems that lawyers encounter in practice, small group discussion, and role playing exercises.

I expect you to have read the assigned material and to come to class prepared to discuss the issues and problems presented in the readings.

3. Attendance. Students have been separately informed that they must regularly attend class. This is a requirement of the ABA, bar examiners, and the school. Regular attendance means a minimum of 80% attendance. A student who does not attend regularly may be denied the right to sit for an examination without further warning.

4. Class Sessions. We will meet once a week for 14 weeks from Tuesday, September 5, 2017, through Tuesday, December 5 with a ten-minute break during class.
5. **Grading, Final Examination.** Your grade in the course is based on the final examination, which will be in class in accordance with the school exam schedule. As set forth in the course description, the exam is partial open book. You may have only the following materials on the examination (1) your rules supplement, (2) an outline that you or a group of which you were a member have prepared for this course, (3) copies of any portion of power point slides or other materials posted on the course website. You may not have the following materials on the examination: (a) Professionally prepared outlines or study guides, (b) outlines of this course prepared by students in prior years, (c) the case book for this or any other professional responsibility course.

The exam will of 20-25 multiple choice questions similar to those that you will find on the MPRE and an essay portion consisting of five or six short essays.

In the course I will refer to significant New York variations from the ABA Model Rules. On the examination there may be very limited questions on the New York Rules: for example, one or two choices for answers on the multiple choice section of the exam (i.e., two choices out of a possible 80 choices on a multiple choice exam with 20 questions and four choices for each question) or a bonus question worth no more than five points on the New York Rules.

I reserve the right to raise or lower a student’s grade by one step based on excellent or deficient classroom performance.

6. **Course communications: telephone, email, and personal meetings.**

   Email: nmc6@nyu.edu  
   Telephone: 803-331-2826  
   Personal meeting: Email to schedule an appointment.

7. **Useful websites.**


   Technethics, a site devoted to the intersection of lawyer’s ethics and technology, http://www.technethics.com

   Nathan Crystal’s scholarship on ethics, http://www.nathancrystal.com
Syllabus (tentative, subject to change)

All reading assignments are to Crystal, Professional Responsibility: Problems of Practice and the Profession (6th ed. 2017)
You should also read the ABA Model Rules referred to in each reading assignment. In class I will refer to significant variations in the New York Rules from ABA Model Rules.

WEEK 1 SEPTEMBER 5

Introduction to Professional Responsibility -- Sources of Professional Obligations
Read Crystal pages 1-20. In class we will focus our discussion on In re Pautler, pages 5-12.

Introduction to Professional Responsibility – Developing a Philosophy of Lawyering and the Moral Accountability of Lawyers
20-33 and Problem 1-1.

At the end of each chapter are assessment questions and suggested analysis for you to test your understanding of the material.

WEEK 2 SEPTEMBER 12

The Duty of Competency, Malpractice, and Nonengagement Communications
66-72 and Problem 2-2 (omit Problem 2-1)

Contingent Fees, Expenses, and Fee Splitting
72-85 and Problem 2-3

Advance Payments
90-93 and Problem 2-4(a)
Skim pages 88-90 and 93-95

WEEK 3 SEPTEMBER 19

Drafting Engagement, Limited Engagement, and Disengagement Communications
95-111 and Problem 2-5(a)

Allocation of Authority
112-124 and Problem 2-6

WEEK 4 SEPTEMBER 26

Scope and Exceptions to the Duty of Confidentiality
129-140 and Problem 3-1
The “Possession” Exception to the Ethical Duty for False Testimony
140-149 and 154-156 and Problem 3-2(a), (b)

WEEK 5 OCTOBER 3

Exception to the Ethical Duty for False Testimony
156-179 and Problem 3-3(a)(1), (2), (3), (6) and 3-3(b)

WEEK 6 OCTOBER 10

Exception to the Ethical Duty for Fraud in Business Transactions
179-207 and Problem 3-4(a), (c), (d). Omit 193-201 dealing with the Sarbanes-Oxley Act.

WEEK 7 OCTOBER 17

Confidentiality and the Use of Technology
207-222 and Problem 3-5

The Attorney-Client Privilege and the Work Product Doctrine
222-228 and Problem 3-6

WEEK 8 OCTOBER 24

Conflicts of Interest – Direct Adversity Between Current Clients
233-251 and Problem 4-1(a), (b), (d), and (f)

Conflicts of Interest -- Material Limitation on Representation
251-260 and Problem 4-2
261-267 and Problem 4-3

WEEK 9 OCTOBER 31

Conflicts of Interest -- Former Clients
289-298 and Problem 4-6

Conflicts of Interest -- Imputed Disqualification and Former Government Lawyers
298-304 and Problem 4-7
Lecture on the former government attorney. Skim pages 482-497 and Problem 6-3(3).

Advocate-Witness Conflicts
305-311 and Problem 4-8

WEEK 10 NOVEMBER 7
Limitations on Zealous Representation -- Claims, Defenses, and Motions
319-320 and 330-340 and Problem 5-2

Limitations on Zealous Representation – Investigation: Contacts with Employees
341-349 and Problem 5-3
Lecture on secret tape recording. Skim 340-354.

WEEK 11 NOVEMBER 14

Limitations on Zealous Representation – Discovery Abuse
354-366 and 5-5

Limitations on Zealous Representation – Inadvertent Disclosure
367-371 and Problem 5-6

WEEK 12 NOVEMBER 21

Limitations on Zealous Representation -- Negotiations
372-390 and Problem 5-7(a), (b), (c), (d), and (g)

Limitations on Zealous Representation -- Trial Publicity
404-414 and Problem 5-9

WEEK 13 NOVEMBER 28

Limitations on Zealous Representation -- Trial Tactics and Prosecutorial Obligations

WEEK 14 DECEMBER 5

Marketing of Legal Services
555-580 and Problems 7-1 and 7-2.