

Syllabus

Professional Responsibility Course

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COURSE DESCRIPTION: American Bar Association Model Rules and Texas Rules of Professional Responsibility form the framework for study of ethical topics relating to an attorney's relation to the courts and to clients, such as the rights and responsibilities of an attorney, conflict of interest, confidential communications, disciplinary proceedings, and other ethical issues.

COURSE OBJECTIVES: 1) Students learn the ABA Model Rules of Professional Conduct, the ABA Model Code of Judicial Conduct, and selected sections of the Texas Rules. 2) Students effectively prepare to pass the MPRE on the first try. 3) Students expand their ability to engage in nuanced ethical reasoning, deliberation, and debate. 4) Even the unethical and unprofessional students acquire useful information about the consequences of violating the rules that regulate the legal industry. **To achieve these objectives**, we will study the relevant rules and standards, will practice numerous MPRE-like questions, will have a final exam very similar to the MPRE, and will learn the procedures for disbarment, discipline, and malpractice liability. Class sessions also include extended ethical deliberation and debate.

REQUIRED TEXTS: **REQUIRED TEXTS:** *Glannon Guide for Professional Responsibility*, by Dru Stevenson, ISBN 9781454862154 OR ISBN-10: 1454862157 (it is sold under both ISBN's).

AND *2017 Practice Questions for Professional Responsibility*, by Drury Stevenson (FORTHCOMING), available FREE for download on the course web page, or you can purchase an inexpensive printed copy on Amazon.com, but not in the bookstore). Many students find the printed copy much more convenient. This book is NOT necessary for regular class preparation but will be helpful in preparing for the final exam, and will contain sample practice questions resembling those on the exam.

RECOMMENDED: *Professional Responsibility, Standards, Rules and Statutes*, 2014-2015 (Abridged), by John S. Dzienkowski, **Previous editions OK** (anything after 2011). **OR** you can also access the Model Rules **free online** at http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html

ASSESSMENT & EXAMINATION: There will be a FINAL EXAM, all multiple-choice questions (200 questions, no essays), based on the Model Rules, course materials, and class lectures. **CLASS ATTENDANCE IS REQUIRED.**

NO LAPTOPS OR OTHER COMPUTERS WITH INTERNET ACCESS IN CLASS.

- I. **Conflicts of interest (12–18%, 7-12 Questions of the 60 on MPRE) - Rules 1.7-1.12, 1.18 (approx. 4 classes)**
 - 1. Current client conflicts—multiple clients and joint representation – Rule 1.7
 - 2. Current client conflicts—lawyer's personal interest or duties - Rule 1.8
 - 3. Former client conflicts – Rule 1.9
 - 4. Prospective client conflicts – Rule 1.18
 - 5. Imputed conflicts – Rule 1.10
 - 6. Acquiring an interest in litigation – Rule 1.8
 - 7. Business transactions with clients – Rule 1.8
 - 8. Third-party compensation and influence –Rule 1.8, Rule 5.4
 - 9. Lawyers currently or formerly in government service – Rule 1.11
 - 10. Former judge, arbitrator, mediator, or other third-party neutral – Rule 1.12

- II. **The client-lawyer relationship (10–16%, 6-9 Questions of the 60 on MPRE), Rules 1.2, 1.4-1.5, 1.13-1.14, 1.16 (approx. 3 classes)**

1. Scope, objective, and means of the representation – Rule 1.2
2. Decision-making authority—actual and apparent – Rule 1.2
3. Counsel and assistance within the bounds of the law – Rule 1.4
4. Communications with the client – Rule 1.4, Rule 1.14
5. Formation of client-lawyer relationship – Rule 1.4-1.5
6. Client-lawyer contracts – Rule 1.5
7. Fees – Rule 1.5
8. Termination of the client-lawyer relationship – Rule 1.16

III. Litigation and other forms of advocacy (10–16%, 6-9 MPRE Questions), Rules 3.1-3.7 (approx. 3 classes)

1. Meritorious claims and contentions – rule 3.1
2. Expediting litigation – Rule 3.2
3. Candor to the tribunal – Rule 3.3
4. Fairness to opposing party and counsel – Rule 3.4
5. Impartiality and decorum of the tribunal – Rule 3.5
6. Trial publicity – Rule 3.6
7. Lawyer as witness – Rule 3.7

---22%-44%, or 19-30 Questions out of 60 on MPRE so far-----1/3 to ½ of test---

IV. Competence, legal malpractice, and other civil liability (6–12%, 3-7 MPRE Questions), Rules 1.1, 1.3, 2.3, 7.2 (2-3 classes)

1. Maintaining competence – Rule 1.1
2. Competence necessary to undertake representation – Rule 1.1
3. Exercising diligence and care – Rule 1.3
4. Civil liability to client, including malpractice – Rule 1.8
5. Civil liability to nonclients – Rule 2.3
6. Limiting liability for malpractice – Rule 1.8
7. Malpractice insurance and risk prevention

V. Client confidentiality (6–12%, 3-7 MPRE Questions), Rule 1.6 (2-3 classes)

1. Attorney-client privilege -
2. Work-product doctrine
3. Professional obligation of confidentiality - general rule – Rule 1.6
4. Disclosures expressly or impliedly authorized by client – Rule 1.6
5. Other exceptions to the confidentiality rule – Rule 1.6

VI. Regulation of the legal profession (6–12%, 3-7 MPRE Questions), Rules 5.1-5.5, 8.1-8.5 (2-3 classes)

1. Law firm and other forms of practice – Rule 5.1
2. Responsibilities of partners, managers, supervisory and subordinate lawyer - Rule 5.1-5.3
3. Fee division with a nonlawyer – Rule 5.4
4. Unauthorized practice of law by lawyers and nonlawyers – Rule 5.5
5. Multijurisdictional practice – Rule 5.5
6. Admission to the profession – Rule 8.1
7. Regulation after admission—lawyer discipline Rule 8.1, 8.4
8. Mandatory and permissive reporting of misconduct – Rule 8.3
9. Powers of courts and other bodies to regulate lawyers – Rule 8.5

-----40-80%, 28-51 out of 60 MPRE Questions, ½-4/5 of MPRE so far-----

VII. Communications about legal services (4–10%, 2-6 MPRE Questions Rules 7.1-7.6 (2 classes)

1. Advertising – Rule 7.2

2. Solicitation—direct contact with prospective clients – Rule 7.3
3. Group legal services – Rule 7.2-7.3
4. Referrals – Rule 7.2
5. Communications regarding fields of practice and specialization – Rule 7.6

VIII. Different roles of the lawyer (4–10%, 2-6 MPRE Questions) Rules 2.1-2.4, 3.8-3.9, and 1.13 (1-2 classes)

1. Lawyer as advisor – Rule 2.1
2. Lawyer as evaluator – Rule 2.3
3. Lawyer as negotiator – Rule 2.4
4. Lawyer as arbitrator, mediator etc Rule 2.4
5. Prosecutors and other government lawyers – Rule 3.8
6. Lawyer appearing in nonadjudicative proceeding – Rule 3.9
7. Lawyer representing an entity or other organization – Rule 1.13

IX. Transactions and communications with persons other than clients (2–8%, 1-3 MPRE Questions), Rules 4.1-4.4 (1-2 classes)

1. Truthfulness in statements to others – Rule 4.1
2. Communications with represented persons – Rule 4.2
3. Communications with unrepresented persons – Rule 4.3
4. Respect for rights of third persons – Rule 4.4

X. Safekeeping funds and other property (2–8%, 1-3 MPRE Questions), Rule 1.15 (1 class)

1. Establishing and maintaining client trust accounts – Rule 1.15
2. Safekeeping funds and other property of clients– Rule 1.15
3. Safekeeping funds and other property of third persons– Rule 1.15
4. Disputed claims– Rule 1.15

XI. Moral Philosophy – 1 class

XII. Texas Disciplinary Procedure – 2 classes

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps<<http://www.uh.edu/caps>>) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html