

SYLLABUS

PROFESSIONAL RESPONSIBILITY

Fall 2009

Patrick R. Burns - Adjunct Professor
First Assistant Director
Office of Lawyers Professional Responsibility
1500 Landmark Towers
345 St. Peter St.
St. Paul, MN 55102
651-296-3952
pat.burns@courts.state.mn.us

Text: Ethical Problems in the Practice of Law, Second Edition, Lerman and Schrag

Supplemental materials: Model Rules of Professional Conduct, ABA Center for Professional Responsibility; Other People's Money: Operating Lawyer Trust Accounts, December 2008, Minnesota Lawyers Professional Responsibility Board – available at: [http://www.mncourts.gov/lprb/OtherPeoples\\$.pdf](http://www.mncourts.gov/lprb/OtherPeoples$.pdf)

Grading: Your grade will be based primarily on the final examination. Class participation will earn you extra points on your final grade.

What to expect: You will be responsible and may be tested on all of the assigned readings, whether or not we discuss them in class. There will be discussions in class of some material not in the text. You will be responsible for this as well. A heavy emphasis will be put on the specific provisions of the ABA Model Rules of Professional Conduct and, to a lesser extent, the Minnesota Rules of Professional Conduct. You will be expected to apply those rules to any given fact situation. You will be expected to learn, and will be tested on, how to maintain appropriate lawyer trust account books and records based on the Minnesota rules regarding handling client property. This course is not intended to be a class in preparation for taking the professional responsibility portion of the bar exam. Obviously, however, we will be covering many of the same issues.

Reading assignments: All page references are to the Lerman and Schrag text unless otherwise noted. References to the ABA Model Rules of Professional Conduct are designated MR __. References to the Minnesota Rules of Professional Conduct are designated MRPC.

The Regulation of Lawyers

Day 1: Foreword, Preface and Introduction and 20-45, MR Preamble and Scope

Day 2: Admission to the Bar, 45-71, Minnesota Conditional Admission Rule - <http://www.ble.state.mn.us/rules.html>

Day 3: Professional Discipline, 73-96, MR 8.1

Day 4: Reporting Misconduct, Duties of supervision 96-128, MR 8.3, 5.1-5.3

Day 5: Guest Speaker – Joan Bibelhausen, Minnesota Lawyers Concerned for Lawyers

Client Confidences

Day 6: Confidentiality: basic principles: 151-161, MR 1.6 and Rule 1.6, MRPC

Day 7: Exceptions to Confidentiality- past criminal conduct: 161-176

Day 8: Exceptions to Confidentiality - risk of future harm: 176-188

Day 9: Client fraud and other issues: 188-213, MR 1.2(d), 3.3

Day 10: Attorney-client Privilege: 216-233

Day 11: Exceptions to the Privilege: 233-244

Day 12: The privilege for corporations: 244-260

Relationships Between Lawyers and Clients

Day 13: Establishing and outlining an attorney/client relationship: 266-279, MR 1.2, 1.18, and 6.5

Day 14: Competency, honesty, and diligence: 279-309, MR 1.1, 1.3, 1.4, 3.2, 4.1, and 8.4(c)

Day 15: Allocation of Authority: 309-325, MR 1.2, *In re Panel File Number 99-5*, 607 NW2d 429 (Minn. 2000)

Day 16: Clients with diminished capacity and terminating the attorney/client relationship: 326-344, MR 1.14

Day 17: Terminating the attorney/client relationship: 344-350, MR 1.16

Conflicts of Interest

Day 18: Concurrent conflicts – general principles: 352-370, MR 1.7

Day 19: Disqualification, imputation, suing a client and other actions adverse to a client and prospective clients: 370-389, MR 1.18

Day 20: Conflicts in non-litigation matters and conflicts in representing organizations: 392-405, MR 1.13

Day 21: Joint representations of codefendants, representing family members, insurance conflicts, and class actions: 406-433, *Pine Island Farmers Coop v. Erstad & Riemer*, 649 NW2d 444 (Minn. 2002)

Day 22: Former client conflicts, 435-457, MR 1.9

Day 23: Representations adverse to former clients and imputation, 457-469, MR 1.10, 1.9(b)

Day 24: Former firm conflicts and lateral hires: 469-481, MR 1.9(b) and 1.10(b)

Day 25: Conflicts between lawyers and clients – fees: 484-502, MR 1.5

Day 26: Fee agreements and billing issues: 502-527

Day 27: More fee issues: 527-546, MR 1.8, (d), (f), and (h), 1.5(e), 5.4(a), 1.8(f)

Day 28: Handling client funds and property: 547-550, Other People's Money, MR 1.15

Day 29: Conflicts with lawyer's personal interests, government lawyer and adjudicator conflicts: 551-591, MR 1.8, 1.11, 1.12

Duties to the Court, Adversaries, and Others

Day 30: Lawyers in the adversary system, pre-suit investigation: 594-626, MR 1.2(b), 3.1, 3.3, 3.8, 8.4(c) and (d)

Day 31: False impressions, coaching and handling physical evidence: 626-643

Day 32: Discovery in civil cases: 643-654

Day 33: Duty to disclose adverse legal authority, ex-parte proceedings, communicating with judges or jurors: 654-677, MR 3.3, 3.5, 3.6

Day 34: Communications with lawyers and third parties: 679-704, MR 4.1 and 4.2

Day 35: Contact with unrepresented parties: 705-713, MR 4.3, 4.4

Day 36: Duties of Prosecutors and conduct prejudicial to the administration of justice: 713-730, MR 3.8, 8.4(d)

The Legal Profession

Day 37: Advertising and solicitation: 791-802, MR 7.1-7.5

Day 38: Multi-jurisdictional practice, ownership of law firms, multi-disciplinary practice: 802-817, MR 5.4 and 5.5

Day 39: Pro bono: MR 6.1, review and catch-up