

Legal Professionalism and Ethics L643

Spring 2025

Course Syllabus

Instructor	Professor Harlan Sands, J.D., M.B.A.	Meeting times	M/W 2:50-4:05pm M/W 7:30-8:45pm
Phone	216-687-2256	Office Hours	M/W 10:00-12:00 or by appointment
Office	LB 211	Classroom	TBD



Required texts/materials: [Professional Responsibility: Problems of Practice and the Profession, Eighth Edition](#)

by Nathan M. Crystal, Grace M. Giesel ISBN 979-8-8890-6293-6 (hardcover) | ISBN 9781543816822 (ebook).

Textbook purchase has access to the **Connected eBook with Study Center** on CasebookConnect, including: lifetime access to the online ebook with highlight, annotation, and search capabilities; **practice questions**, study aids; an **outline tool** and **other helpful resources**.

Direct access to The ABA Model Code of Professional Conduct is here:

https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/, and The Ohio Code of Professional Conduct is here:
<https://www.supremecourt.ohio.gov/docs/LegalResources/Rules/ProfConduct/profConductRules.pdf>

Where cases, rules, statutes, or other materials outside the Casebook are assigned, you are responsible for obtaining and reviewing that material.

Assignments: Weekly reading assignments are listed in syllabus; additional reading assignments may be added during semester. **I expect you to study assigned material in advance to maximize your meaningful participation in class.** Where Casebook reading includes references to Model Rules of Professional Conduct, you are expected to read any cited Model Rules and/or Ohio Rules of Professional Conduct, and any related comments.

Attendance and Grading:

Class attendance is required. Any unexcused absence from class may result in involuntary withdrawal and/or lowering of final grade.

Your grade will be based primarily upon three quizzes (30%) and a final exam (60%), all of which will build upon materials covered in class and assigned readings. The remainder of your grade will come from meaningful class participation (10%). Absences, late arrivals, and/or unpreparedness will downgrade participation grades accordingly. I reserve option to raise a student's grade to reflect exceptional participation.

Our final exam will take place during the regularly scheduled exam period at the end of the semester. The final exam will include multiple choice, MPRE-style questions and/or short answer/essay questions.

Academic Integrity/Student Conduct: Given that this course is designed to promote principles of legal ethics and professional responsibility, and that integrity, honesty, civility, and professionalism are all important elements of every state's bar admissions process, it is imperative that all law students conduct themselves accordingly during our studies together. All students are expected to adhere to academic integrity standards and not engage in conduct that constitutes discrimination or harassment on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status. See https://www.csuohio.edu/sites/default/files/3344-21-02_Academic_Misconduct_Policy_Compliance.pdf for further guidance on academic integrity standards and policies. The CSU Law Honor Code, which can be found in the Student Handbook, is in effect at all times.

General Guidance: Use of electronic devices in the classroom is strongly discouraged; it is my experience that the presence of smart phones/personal electronic devices could significantly detract from your ability to focus, so use of electronic devices is restricted to laptops, and then only to review class material, related statutes/guidelines, and to take notes. **No recording of class lectures is permitted.** Accommodations for students with documented disabilities can and will be made as required by our Office of Disability Support Services. If there are any other questions related to your particular ability to complete course requirements, please come see me on an individual basis.

Class schedule outline (tentative): Below is our planned class schedule; additional and/or adjusted agendas may require changes as our semester evolves. "C&G" refers to Crystal and Giesel text. Additional reading assignments are noted below. You should also read the Ohio Rules of Professional Conduct ("ORPC") and the ABA Model Rules ("MR's") or Rules from the ABA Code of Judicial Conduct that accompany each problem assignment, and any additional materials that are referenced below or assigned. Additional reading assignments will be posted on Blackboard each week.

Class	CLASS/TOPIC	TEXT READINGS/PREPARATORY MATERIALS
1/2	<u>January 13/15</u> Course Introduction/Expectations Regulation of Legal Profession Professional Rules and Standards	Review Course Syllabus Ohio Rules of Professional Conduct (ORPC)/ABA Model Code of Professional Conduct: Read: Preface, Preamble, Scope, Terminology Read/Review Rule 4.3 (Communications with unrepresented individuals), Rule 8.4 (Misrepresentation) Read C&G 1-19; Focus on <i>In re Pautler</i> , 5-13 (including Rule Review pp.12-13)
	<u>January 20</u>	MLK Birthday – no class
3	<u>January 22</u> Philosophies of Lawyering	C&G 21–38, 55-60 (Philosophy) Problem 1-1 Quality of Life/Discrimination in Practice of Law (C&G 549-553) MR/ORPC 8.4(g)

4	<u>January 27</u> Regulating Attorney Conduct Admission to Practice	C&G 39-55 (Admission); Discipline (Problem 1-2), Duty to Report (Problem 1-3) MR/ORPC 8.3(a) Rule Review MR 2.1 (attorneys not limited to legal advice) Chapter 1 Wrap-up (Assessments C&G 59-60)
5	<u>January 29</u> - Bar Admission, Attorney Misconduct, and Discipline	Cleveland Metropolitan Bar Association (CEO/GC)
6/7	<u>February 3/5</u> Attorney-Client Relationship Duty of Competency	Duty of Competency (C&G 62-75 including <i>Togstad</i> case) Competence of Counsel in Criminal Cases (Problem 2-1, <i>Strickland</i> standard) MR/ORPC 1.1, 1.3, 1.18 (Including Rule Review p.75) Assigned Cases
8/9	<u>February 10/12</u> Attorney Fees and Trust Accounts	Quiz 1 C&G 76-99 (Problem 2-3 including Rule Review p.90) MR/ORPC 1.5, 1.8(e) and (f), 1.15, 3.4, and comments Problem 2-4, Rule Review 1.15 (p.99)
10	<u>February 18 (Tuesday)</u> Engagement Agreements	C&G 100-106 (including quantum meruit theory) MR/ORPC 1.2 (a) and (c), 1.4, 1.5, 1.16, 1.8
11	<u>February 19</u> Termination of Attorney-Client Relationship	C&G 107-116 ABA Formal Opinion #471 (obligation to protect client after termination) Rule Review 1.4, 1.16 (p.116)
12/13	<u>February 24/26</u> Allocation of Authority/Diminished Capacity/Competency	Begin C&G 116-132 (including Rule Review 1.14 and Assessments 128-132) Competency to stand trial/insanity defense
14/15	<u>March 3/5</u> Ethical Duty of Confidentiality	Scope/Exceptions to Duty of Confidentiality (C&G 133-145, Problem 3-1) MR/ORPC 1.6 (Duty of Confidentiality), 1.1, 1.16
	<u>March 10-16</u>	SPRING BREAK

16	<u>March 17</u> Duty of Confidentiality and Use of Technology	Confidentiality and Use of Technology (C&G 196-205 and Problem 3-5) See Google Terms and Services https://policies.google.com/terms?hl=en-US
17	<u>March 19</u> Attorney-Client Privilege	Quiz 2 Attorney-Client Privilege and Work Product Doctrine (C&G 205-220 and Problem 3-6 with Assessments) Rule Review 1.6, 1.2 (p.216)
18/19	<u>March 24/26</u> Honesty and Candor in Practice	Exception to Ethical Duty for False Testimony (C&G 158-176 and Problem 3-3(a)(1), (2), (3), (6) and 3-3(b)), <i>Nix v. Whiteside (p.170)</i> Ethical and Legal Obligations when Encountering Illegal or Fraudulent Acts by Clients (C&G 178-196)
20/21	<u>March 31/April 2</u> Conflict of Interest	Direct Adversity between Current Clients (C&G 221-236 and Problems 4-1); MR/ORPC 1.7, 1.8 Material Limitation Conflicts: Business Transactions (C&G 236-243 and Problem 4-3)
22/23	<u>April 7/9</u> Conflict of Interest	Material Limitation Conflicts: Tort Actions (C&G 243-250 and Problem 4-4) Material Limitation Conflicts: Co-Defendants (C&G 254-263 and Problem 4-5)
24	<u>April 14</u> Conflict of Interest	Quiz 3 Former and Prospective Clients (C&G 264-274 and Problem 4-6) Imputed Disqualification 274-281 including Rule Review (Rule 1.9(b))
25	<u>April 16</u> Ethics and Insurance Defense Practice	Guest Lecturer: Aram Megerian, Esq., Cole, White, and Kissane, P.A.

		Material Limitation Conflicts: Insurance Defense (C&G 250-254 and Problem 4-4)
26	<u>April 21</u> Ethics and Negotiation Settlement Agreements	Negotiation (C&G 346-362 and Problem 5-5) Rule Review (C&G 371)
27	<u>April 23</u> Delivery of Legal Services	Marketing of Legal Services (C&G 469-497 and Problem 7-1, also MR/ORPC 7.2)
28	<u>April 28</u>	Wrap Up/Review
	<u>TBD</u>	Final Exam
TBD	Role of Prosecutor/Defense Attorneys	Guest Lecturer: Carlos Martinez, Public Defender, Miami-Dade County Florida

LEARNING OUTCOMES

Topic	Learning Outcomes - at the end of each topic, you will be able to:
Introduction; Lawyer Regulation and the Disciplinary System	<ul style="list-style-type: none"> • Examine why standards of ethical behavior are critical to effective practice – and part of lawyers' role in society • Understand moral and legal obligations for honesty and candor • Explain framework for rules/laws that regulate conduct • Understand how standards for bar admission and discipline encourage lawyers provide competent and ethical representation

	<ul style="list-style-type: none"> • Understand fiduciary role of attorney • Review Ohio Bar standards/expectations • Recognize how attorney disciplinary system works
The Attorney-Client Relationship	<ul style="list-style-type: none"> • Understand various roles and obligations of attorneys and clients • Recognize what actions may create a lawyer-client relationship • Evaluate whether a lawyer-client relationship exists • Recognize consequences of establishing a lawyer-client relationship • Understand obligations to consult with clients regularly • Evaluate when a lawyer and/or client may end a lawyer-client relationship • Determine what actions a lawyer must take before withdrawing from representation • Distinguish situations that require a lawyer to withdraw from representation, situations that permit a lawyer to withdraw from representation, and situations in which a lawyer is not permitted to withdraw from representation • Understand retainer agreements and appropriate fee structures
Competence & Allocating Authority	<ul style="list-style-type: none"> • Learn standards that establish baseline for competent legal representation • Understand meaning of “diligence” with respect to competent representation • Distinguish levels of performance and conduct that subject lawyers to discipline, civil liability, and findings of ineffective assistance of counsel • Evaluate elements of lawyer malpractice actions • Recognize decision points that arise during representation, and understand what decisions are allocated to attorneys/clients • Understand how to manage dynamics of attorney/client relationship, including communication and decision-making strategies • Apply appropriate allocation principles for those decisions not clearly allocated to clients
Fees & Billing	<ul style="list-style-type: none"> • Distinguish types of fees a lawyer may charge • Define and determine how/what fees are “reasonable” • Understand purpose and function of trust accounts and funds that should be maintained separately
Confidentiality & Privilege	<ul style="list-style-type: none"> • Describe relationship between attorney-client privilege and duty of confidentiality • Explain rationale for attorney-client privilege • Identify necessary elements for attorney-client privilege • Identify who has authority to waive attorney-client privilege

	<ul style="list-style-type: none"> • Determine individuals to whom an attorney owes the duty of confidentiality • Identify scope of information within duty of confidentiality and exceptions • Analyze whether duty of confidentiality and exceptions balance client/attorney/societal interests
Conflicts of Interest	<ul style="list-style-type: none"> • Evaluate when representation is permitted when conflicts of interest exists • What constitutes proper informed consent to a concurrent conflict of interest • Understand different obligations to current, past, and potential clients • Understand material limitations that define conflicts in cases involving criminal cases, torts, law firms, and business matters • Evaluate what constitutes a conflict situation when an attorney may be a witness • Explain characteristics of “informed consent” that could ameliorate conflict situations • Determine when representation is permitted when conflicts of interest are imputed to a tainted lawyer’s firm
Honesty and Candor (Conduct and Practice)	<ul style="list-style-type: none"> • Understand why credibility is the most critical character trait • Understand relationship between obligation of honesty and candor as it relates to confidentiality, conflict of interest, fees, roles and responsibilities, and fellow attorney conduct • Understand attorney obligations for honesty and candor in front of tribunals - and in practice • Explain rules against making false statements of fact or law to a tribunal • Understand rule requiring attorney to take reasonable remedial measures to correct misrepresentations if lawyer comes to know evidence presented is false
Prosecutorial and Criminal Defense Ethics	<ul style="list-style-type: none"> • Explain importance of “vigorous” vs. “zealous” representation • Explain various roles as Officers of the Court • Recognize unique role of prosecutor as minister of justice • Recognize boundaries of prosecutor discretion to charge • Analyze role and requirements of prosecutors in ensuring a defendant’s right to counsel • Understand role of criminal defense attorney in preparing trial tactics and strategy • Differentiate constitutional obligation to disclose evidence (Brady Rule) from requirements under MR 3.8 • Identify proper prosecutorial conduct at different stages of a criminal action

	<ul style="list-style-type: none"> Analyze and articulate policy behind rule requiring prosecutors to rectify and avoid wrongful convictions
Negotiations and Effective Client Representation	<ul style="list-style-type: none"> Establishing credibility as part of personal reputation Understanding appropriate negotiation strategies and tactics with respect to ethical obligations
Attorney Advertising	<ul style="list-style-type: none"> Distinguish solicitation from advertising Identify States' interest in regulating lawyer advertising as commercial speech Recognize the ways in which lawyers are advertising with new media and technologies that may not be governed directly by the Rules Analyze whether a lawyer solicitation or advertisement complies with the Rules