I. INTRODUCTION

Welcome to Legal Profession. This 3-credit course meets on Mondays and Wednesdays from 10:45 a.m.-12 p.m. The Legal Profession course addresses questions of legal ethics and professional responsibility. This course satisfies the law school and the ABA’s professional responsibility requirement. It also will help with your preparation for the Multistate Professional Responsibility Examination (the “MPRE”), although there will be subjects covered on that exam that we don’t cover in class. We will work through most of the relevant material for that exam in class; much of the rest is easy and can be picked up through bar prep materials and independent study.

II. COURSE MATERIALS AND BACKGROUND READING

Our main text will be Lisa G. Lerman and Philip G. Schrag, Ethical Problems in the Practice of Law, Second Edition (Aspen 2008). In addition, we will be using John S. Dzienkowski’s Professional Responsibility Standards, Rules & Statutes, which provides a variety of primary legal ethics resources, such as the ABA Model Rules of Professional Conduct, the Restatement, and other codes, rules, and materials. I will refer to the current edition, but I think last year’s edition will do for most purposes. You should bring both books to each class. Although we’ll be focusing on the ABA Model Rules rather than Alabama’s own professional responsibility rules, you might want to take a look at them too. They can be found at http://www.alabar.org/ogc/ropc.cfm, among other places.

There are a host of secondary resources available for those who have questions about particular topics or just find certain areas particularly engaging. At the same time, I would caution against undue reliance on these volumes for regular study or, especially, exam preparation. The materials covered in class should provide you with enough material on their own. Still, students who are interested in consulting these works for additional insights into particular issues may wish to turn to Deborah L. Rhode and Geoffrey C. Hazard, Jr., Professional Responsibility and Regulation (Foundation Press 2002); George M. Cohen and Susan P. Koniak, Foundations of the Law and Ethics of Lawyering (Foundation Press 2004); Ronald S. Rotunda and John S. Dzienkowski, Professional Responsibility: A Student’s Guide, 2005-2006 (Thomson/West 2005); or W. Bradley Wendel, Examples and Explanations: Professional Responsibility (Aspen Publishers 2004). Of course, there are also standard commercial outlines, supplemental study materials (I recommend the “Q & A” series), and other such materials, if you want them.
III. COURSE COVERAGE

The readings for the course are offered below, and are subject to revisions, which I will announce in class. They are numbered by class, so you should have read at least that amount for each class, but we will speed up at times and you should try to stay at least one class ahead. For each class, in addition to the reading in the casebook, you should look up the full version of any pertinent Model Rules and comments in your rules supplement. We will spend a great deal of time going through the problems in each chapter, so please make sure that you read and think about the listed problem for each class (for further discussion, see Part IV of this syllabus). I may use the TWEN page I have established for this course to assign additional materials where necessary.

Schedule of Assignments

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<th>Topics, and Problems and cases to be discussed in class</th>
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Registration deadline for the next MPRE is ___. For info, go to [http://www.ncbex.org/multistate-tests/mpre/guidelines/dates/](http://www.ncbex.org/multistate-tests/mpre/guidelines/dates/)

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1 Note: The comments after Rule 1.7 are voluminous. Read the comments that are relevant to the various sub-topics as you read the material in the text.
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- Dividing fees with other firms or with nonlawyers
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<td>How to find an employer that has high ethical standards and humane work conditions</td>
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### Section 13-1: The Reforming Partner

**Small firms**

- Government and nonprofit organizations
- Temporary and contract lawyers
- Overseas outsourcing

**The ethical climate of the legal profession**

- Mass production

### Section 13-3: Small claims

**Pressure to pad bills or**

- Pressure from clients to help them commit fraud
- Ethics and substance abuse

**13-4 “I'm not driving”**

- Public perceptions of lawyers
- How to find an employer that has high ethical standards and humane work conditions
## Chapter 14: Regulatory Restrictions on Law Practice and

## Chapter 15: The Provision of Legal Services

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<tr>
<th>27</th>
<th>Advertising</th>
<th>791-836</th>
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<td>Solicitation</td>
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<td>14-1</td>
<td><em>Do you need a lawyer?</em></td>
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<td>Interstate law practice (also called multi-jurisdictional law practice, or MJP)</td>
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<td>Affiliation with nonlawyers</td>
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<td>Ownership of law firms</td>
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<td>Multidisciplinary practice</td>
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<td>A prediction from overseas</td>
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### Chapter 15: The Provision of Legal Services

- The unmet need for legal services
- Sources of free legal services for those who cannot afford legal fees
- The right to counsel for indigent litigants

#### 15-1 *An Indigent Prisoner*
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<th>Civil legal aid</th>
<th>836-872</th>
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<td>15-2</td>
<td><em>Restrictions on Legal Services</em></td>
<td>Model Rules 5.3, 6.1, 6.2</td>
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<td>Fee-shifting statutes</td>
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<td>Pro bono representation</td>
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<td>15-3</td>
<td><em>Mandatory Pro Bono Service</em></td>
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<td>Loan forgiveness and scholarships for public service lawyers</td>
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<td>Restricting legal services: limiting the role of lay advocates</td>
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<td>15-4</td>
<td><em>Special Education</em></td>
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<td>15-5</td>
<td><em>Service to the Poor and the Middle Class</em></td>
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IV. GRADES AND EVALUATION

Grades will be determined through a combination of three forms of evaluation:

A. CLASS PARTICIPATION (20%)

This will be a heavily participation-oriented course, centered on the problems contained in each chapter and noted above in the schedule of readings. Each week, half of the class will be on call, according to where their last name falls in the alphabet: A-M or N-P. If it is your week on call, you should be especially prepared to talk out loud about the problems, the issues they raise, and the Model Rules and other legal doctrines implicated by each one. You may be asked to play the role of one of the characters in the problem, to perform in front of the class in teams, to lead the class in an exercise, to perform an interpretive dance, to express your views about the materials through the medium of show tunes, to take up the deadly serpent, or a variety of other activities. Even if you are not singled out to perform in this manner, you will still be responsible for taking an active role in class discussion for the week.

B. SHORT WRITTEN COMMENT (30%)

No later than 10 or 11 days after your on-call week – that is, no later than the second Monday after your on-call week – you will be responsible for emailing and handing to me a short discussion, about 4 pages single-spaced in length, that elaborates on one of the problems you were responsible for discussing. Think of it as looking more or less like a short answer to an exam question: you should identify the issues raised by the problem, identify the ethical rule(s) or other law(s) that are relevant to the problem, and explain how the ethical rule or law applies to the problem. You may discuss any relevant ethical, legal, strategic, and moral issues. This is not an exact formula, however, and I certainly welcome some creativity on your part in how you respond. For instance, you could focus on analyzing some particular aspect of the problem; you could follow up on an intriguing aspect of the class discussion of the problem; you could talk about how you think the applicable ethical rule is or is not consistent with your general sense of morality or ethics; you could talk about how and why a rule should be redrafted to deal with problems like the one you are discussing; and so on.

C. EXAMINATION (50%)

The remainder of your grade will come from a closed-book final examination at the end of the semester, which will either be entirely multiple-choice or a combination of multiple-choice and short-answer questions. Specific details and discussion concerning the final exam will be given in class.
I would be happy to discuss your papers and/or exams with you after grades have been turned in, for the sole purpose of discussing ways of improving your performance on future examinations. Sound academic theory and university policy require that grades may be changed only for mathematical or clerical errors.

Let me add an important note on the exam and studying for the exam, based on my experience and goals teaching this class. Although the casebook is wide-ranging and interesting, and much of this discussion will reflect itself in your written comment assignments, the exam itself is more straightforward. It is a multiple-choice exam modeled more or less after the MPRE. As such, its primary focus will be on the Model Rules themselves. I recommend that in studying for the exam itself, you focus on the Model Rules, reading them and the comments through as many times as you need to be confident. Of course, the class reading and discussion will aid in your understanding the Rules, but when studying for the exam I suggest you focus much of your energy on the Rules themselves.

V. OFFICE HOURS AND CONTACT INFORMATION

My office hours will be Tuesday and Thursday from 2-4 p.m. in Room 360. Feel free to stop by to discuss questions on the class or anything else. No appointments are necessary during office hours. If you can’t make it during those hours or if I am unavailable, feel free to make an appointment to stop by at another time. I’m also happy to schedule lunch or coffee with groups of students.

I can be reached by email at (205) 348-6110. You may also leave a note in my faculty mailbox or contact my assistant, Donna Warnack. I can be reached by email at phorwitz@law.ua.edu. I will try to return emails and calls promptly, but there may be delays depending on my availability or your question.

You must sign up for the TWEN page for this class. We’ll discuss the use of the TWEN page further in class.

VI. MAKE-UP CLASSES

If I need to miss a class, I will schedule a make-up period well before the end of classes.
VII. ATTENDANCE AND PARTICIPATION

The ABA and AALS rules require students to be in “regular attendance.” I take this rule seriously, as does the school. A student who is absent from more than 20% of the regularly scheduled classes of any course may be dismissed from that course. The learning process is materially affected when absences exceed 20% of scheduled classes, whatever the reason for those absences may be. Accordingly, the rule limiting absences to 20% of regularly scheduled classes covers all absences, including those caused by illness, emergencies, or work. A student with absences exceeding 20% of the regularly scheduled classes will be reinstated only if he or she satisfies the instructor that he or she can cure the academic deficiencies caused by the record of absenteeism, and demonstrates to the satisfaction of the Dean’s Office that the record of absenteeism or any portion thereof is attributable to extraordinary reasons beyond the student’s control. I will be distributing an attendance sheet at every class.

Moreover, because this class should be a wide-ranging discussion about the professional responsibilities of lawyers – a subject on which I hope you all have opinions! – and because it is so heavily problem-based, I take seriously your obligation to read and think about the materials assigned for each class. As noted above, although I welcome volunteers, I will also be calling on students who will be on call for a particular week and will be expected to participate fully in that week’s discussion. Even if you are not on call for that week, I nevertheless expect you to be prepared and to engage in discussion, class exercises, and so on. A student who is unprepared for class may be counted as absent for that day. Thus, please make every effort to come to class prepared and on time, and ready to focus on this class only. If you are aware in advance that you will be absent from class, or that you cannot do the reading, please let me know, or leave a message for my mailbox.

VIII. LAPTOP/NOTE-TAKING POLICY

This class will be a largely laptop-free zone. The reasons for this are many and obvious, but I understand that you are accustomed to taking notes by laptop and I appreciate that this is a significant change. As you will see in a second, despite this policy there will be ample means of gathering substantial class notes.
Here is how the policy will work. Either by hard copy or on my TWEN page, I will maintain a sign-up for those who want to take notes in class by laptop. For each class, up to ten people can sign up. I am fine with repeat note-takers, although I do not want anyone to do it all semester. I assume you know each other well enough by now to recognize that some are better note-takers than others, and if some want to take the lead while others hang back, that’s fine. In return for the privilege of note-taking by laptop in class, each person taking notes in this manner **MUST SHARE HIS OR HER NOTES WITH THE REST OF THE CLASS BY THE NEXT DAY.** There will be a space on TWEN on which you can share your notes. I will not check each day to see whether the note-taker has fulfilled the obligation to share his or her notes, but you are welcome to let me know so I can send a reminder. If you are consistently late in sharing your notes from the previous day, you may lose the note-taking privilege. In short, for every class you should have several alternate sets of laptop-taken notes.

In addition to those notes, you are of course free to take notes by hand in class when you are not among the laptop-users. I encourage you to remember that you will also have access to the laptop-taken notes, and to use your note-taking to focus on the discussion and the most important aspects of the lectures; the whole purpose of this policy is to free you up so you can be a more active participant in class. You are also free to record my lectures if you wish. However, if you are not one of the laptop-using note takers for the day, you may not use your laptop in any fashion.

I would add that this is a discussion- and problem-based class, and you will get more from the class, both in terms of what you learn and in terms of grades, by participating actively in the class. This note-taking policy should encourage and help you rather than hurting your performance, although again I acknowledge that it may be a change from what you are used to.

**IX. DISCLAIMER**

This is a syllabus, not a binding contract. In the words of Justice Holmes, “It is an experiment, as all life is an experiment.” Dates and details are subject to change. Actual mileage may vary. Void where prohibited.

PSH