

PROFESSIONAL RESPONSIBILITY (REQ.7265.01)
SYLLABUS & RULES
VERMONT LAW SCHOOL – SPRING 2023

Prof. Benjamin C. Varadi
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Class Time: 2:10 PM – 3:25 PM, Monday & Wednesday
Location: Oakes 007
Teaching Assistants: Amy Vedder (remote), amyvedder@vermontlaw.edu
Chase Ford (campus), chaseford@vermontlaw.edu

Office Hours: [By appointment](#), in-person or electronically

Office Hours: Meetings with Prof. Varadi are [by appointment](#), in-person, or electronically. While I am happy to meet with you, given the class size, please direct your questions on administrative matters and the like first to our teaching assistants. TA office hours and contact information will be announced the first week of class.

Notice: This document is intended as a general guide. It may (and almost certainly will) be modified based on course progression, scheduling conflicts, weather, and otherwise.

Learning Management Platform: Microsoft Teams has been selected for attendance, class messaging, resource-sharing, and coordination because, among the available options, it is the tool you are most likely to interact with in practice. **It is your sole responsibility to check Teams regularly, as we will be using it heavily for attendance, course assignments, discussion, resource access, and announcements.** If you cannot access the Team for this class at any time, for any reason, you must inform me immediately by email. If your problem is of a technical nature, contact helpdesk@vermontlaw.edu.

Course Description: This course explores the obligations of attorneys under the relevant ethical codes and law related to professional conduct. Students will develop knowledge of the American Bar Association’s Model Rules of Professional Conduct (MRPC) and related authority and understand how those rules inform the resolution of ethical issues that may be faced in practice. While this course seeks to provide foundational knowledge that may support preparation for the Multi-State Professional Responsibility Exam (MPRE), it is broader in scope and not a substitute for dedicated exam study.

Objectives and Outcomes: By the end of the course, students should understand the policy objectives underpinning ethics law, the scope and application of the rules, have the ability to recognize ethical issues in context, and have the capacity to make informed choices in uncertain ethical situations.

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Required Texts: There are **two required texts** for this course:

- Our **course text** is Jefferson, Pearce *et al.*, PROFESSIONAL RESPONSIBILITY: A CONTEMPORARY APPROACH (West Academic, 5th ed. 2023). You may license the electronic version from West, which includes some additional study resources and is slightly cheaper (use code WAVERMONT for an additional 15% off). Whether print or electronic, you are expected to bring this text to class. No support will be provided to purchasers of the older 4th edition other than the author's notes on what has been edited or is missing, and the purchase of an older version will not be a reason for inadequate classroom preparation.
- Our **statutory supplement** and additional resources are found in the 2023 edition of Lerman, Schrag & Gupta, ETHICAL PROBLEMS IN THE PRACTICE OF LAW: MODEL RULES, STATE VARIATIONS, AND PRACTICE QUESTIONS (2023-2024 edition). While most of the statutes and rules can be found online, we will be referencing the questions in the back with some regularity. As described below, **the statutory supplement, but not the course book, will be permitted in exams.**

Additional resources will be provided via Teams as required.

Note on the Rules: When rules are assigned, you are expected to read **both the relevant rule, and its associated comments**, which provide helpful guidance on their application. At times, the comments are effectively their own rules. We will discuss.

Supplements: You are welcome and encouraged to use whatever external resources best support your understanding and fit your learning style. Here are a few thoughts:

The Center for Computer-Assisted Legal Instruction provides a host of interactive lessons on specific professional responsibility topics, which can be found at:

<https://www.cali.org/content/lessons-subject-outline-professional-responsibility>

Many students appreciate the presentation style and illustrative materials in W. Bradley Wendel, EXAMPLES & EXPLANATIONS FOR PROFESSIONAL RESPONSIBILITY (Aspen Publishing 6th ed. 2019). The library has a reserve copy.

The library also provides free ebook access to the very straightforward, albeit sometimes cursory RONALD ROTUNDA, LEGAL ETHICS IN A NUTSHELL (5th ed. 2018).

I do not pretend that my lecture approach is universally applicable. For those who want to hear another take (or with long commutes), the West Academic audio lectures (*Sum & Substance* and *Law School Legends*) are both excellent and available free through the [West Academic mobile application](#)

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Professionalism & Formality: In the classroom and when discussing the course, I prefer to be referred to as Professor Varadi. In casual conversation not related to the course, informal address is encouraged. Students are similarly expected to refer to themselves and each other formally. We will clarify your appellations in class, although you are welcome to email me in advance if that is your preference.

You are expected to comport yourself professionally, as that term is commonly understood at VLGS and in law practice. When in doubt, endeavor to arrive timely and prepared, minimize disruption, communicate clearly, and demonstrate respect and courtesy for the classroom and your peers. VLGS policy also prohibits eating in class. Beverages are permitted.

Written correspondence should be drafted formally, viz., as to a court clerk or more senior counsel. Per VLGS policy, electronic correspondence is not confidential and may be reviewed by IT staff or law school administration.

A demonstrated lack of professionalism may adversely impact your grade (as discussed below).

Attendance: The VLGS Academic Regulations require that a student who is absent from twenty percent of regularly scheduled classes shall be automatically withdrawn from the class with a grade of F- Wd. Warning is not required, and the Registrar shall effect the withdrawal automatically. **If you believe you have a circumstance or excuse warranting an exception to this policy, contact the Dean for Students.**

It is your sole responsibility to indicate your presence in the required format. If you arrive late or are otherwise unable to indicate your presence, you must contact the appropriate TA before 5:00 PM that day. Indicating attendance on behalf of another student or facilitating such indication is a violation of the honor code.

If you cannot attend a given session due to medical, religious, or other circumstances truly beyond your control, please provide the courtesy of notification no later than the following day. I will attempt to provide class recordings, however this is not guaranteed. It is the student's sole responsibility to develop an understanding of the material regardless of class attendance.

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Evaluation: 20% of your grade will be evaluated based on class participation and professionalism. You are never required to have the right answers, but are expected to participate, demonstrate respect for the classroom, class time, and your peers, and to bring intellectual rigor and good faith effort to your assignments and to class interaction. The nature of our course is such that active engagement is expected of all participants when called upon, however you will be provided with ample opportunity to prepare your thoughts.

Participation is a minimum threshold, not a competitive score. Just be prepared and thoughtful. Many outstanding legal practitioners are not enthusiastic about extemporaneous public speaking, and I will endeavor to provide opportunities for advance or alternative preparation if requested. Participation in Teams, including sharing relevant news items, questions, or thoughts about the material, constitutes participation.

Excessive late arrivals, whispering, and other disruptive behavior may adversely affect this score. Your professionalism score is not a measure of your comportment but an incentive to refrain from behavior that may inhibit others' learning. If you have questions about this policy, please ask in advance.

An **mid-term exam worth 20% of your final grade** will be administered. It will take place during class and last approximately one hour. Your statutory supplement will be permitted. We will discuss further in class.

The **remainder of your grade will be a final exam.** This is not my general preference, but one goal of the course will be to assist you in developing foundational knowledge to support MPRE preparation. If you have paid attention, carefully considered the material, and been proactive in resolving ambiguities in your understanding (beyond those ambiguities inherent in the subject material), you will do fine.

Topical Summary Outline: In order to facilitate a dynamic collective progress through the material and opportunity to explore interests as they arise, this outline seeks only to illustrate the flow through the material. I have found that students better internalize material when time and attention is focused on the assigned materials rather than reading ahead and will therefore post reading assignments to Teams. For those who simply can't bear that level of uncertainty, you will find that we are advancing more or less progressively through the book chapters. Reading ahead will mostly result in covering material that may be cut or substituted.

If you have pressing work, childcare, or other significant reasons why you *must* conduct reading in advance, I am prepared to accommodate, subject to the previously discussed reservation of an absolute right to alter or amend this overview in my sole discretion.

- I. Introduction, Bar Admission & Diversity (Chapter 1)**
 - a. Why Do We Have Ethics Rules?
 - b. Are They Any Good?
 - c. What Even Is the Legal Profession?
 - d. How Do I Become a Lawyer?

- II. Establishing and Terminating Legal Practice (Chapter 2)**
 - a. Defining the Practice of Law
 - b. Forming a Lawyer-Client Relationship
 - c. Terminating a Lawyer Client Relationship

- III. Fundamentals of Practice (Chapter 2 Cont'd).**
 - a. Competence
 - b. Diligence
 - c. Allocation of Authority

- IV. Business of Law (Chapter 3)**
 - a. Marketing
 - b. Soliciting
 - c. Advertising
 - d. Fees

- V. Confidentiality & Privilege (Chapter 4)**
 - a. Privilege Generally
 - b. Waiver
 - c. Work-Product
 - d. Confidentiality is different from privilege!
 - e. Exceptions

- VI. Conflicts of Interest (Chapter 5)**
 - a. Simultaneous Representation
 - b. Personal Conflicts
 - c. Lawyer as Witness
 - d. Former Clients
 - e. Firm Conflicts

- VII. Duties to the Court & Legal System (Chapter 6)**
 - a. Meritorious Claims & Contentions
 - b. False Testimony
 - c. Witnesses
 - d. Ex Parte Communication

- VIII. Publicity & Speech (Chapter 6 Cont'd)**
 - a. Trial Publicity
 - b. Decorum, Civility, and Criticism

- IX. Duties to Non-Clients (Chapter 6 Cont'd)**
 - a. Opposing Parties
 - b. Third Parties
 - c. Unrepresented Persons
 - d. Illegal Activity
 - e. Reporting Misconduct

- X. Prosecutors & Judges (Chapter 7, *inter alia.*)**
 - a. Prosecutors
 - b. Judges

- XI. Access to Justice & Confronting Implicit Bias (Chapter 9, *inter alia.*)**