HAMLINE UNIVERSITY SCHOOL OF LAW
HEALTH LAW CLINIC – Law 9610Q
FALL 2013 - SYLLABUS

Clinic Professors:

Susan Schaffer
2136 Ford Parkway, #177
St. Paul, MN 55105
651.221.0683 (office)
612.805.1398 (mobile)
sschaffer@visi.com

Lindsay Davis
1043 Grand Ave, # 259
St Paul, MN 55105
651-698-1913 (office)
651-235-6467 (cell)
lindsaywebbdavis@gmail.com

I. Meeting Schedule and Class Room
   A. Class meets Thursday, 2:30 p.m. to 4:30 p.m.
   B. Clinic hours will be arranged during the first class meeting, Thurs. August 22, 2013
   C. Clinic orientation will be during first class meeting
   D. Class room – Law School room 6

II. Readings:
Assigned readings for classes are listed on the schedule attached at the end of this Syllabus. Students are expected to be able to use WestLaw to find cases, statutes and rules using the citations posted on the schedule. Website links are given for articles and reports. If a student is unable to find any reading assignments, please ask faculty for assistance prior to class.

Required text book:
Krieger, Stefan H., and Neumann, Jr., Richard K., *Essential Lawyering Skills,* 3rd Ed. Aspen Publishers, 2007, ISBN: 978-0-7355-6405-3.

III. Learning Outcomes for the Course:
   A. Central Objective
The Health Law Clinic combines the experience of representing clients under close supervision with the opportunity for careful reflection characteristic of an academic setting. The clinic is intended to provide a foundation for the continuing acquisition and honing of the skills necessary to be a competent practicing attorney. Most cases involve Minnesota Department of Human Services or Department of Health maltreatment and disqualification issues; however, students may also work on other cases, as assigned and related to their interest. The clinic will provide students with substantive health law information, as well as the opportunity to interview and counsel clients, research client issues, obtain and review evidentiary records, and draft persuasive

administrative appeals for clients. Some client cases may involve assisting in an administrative hearing.

B. Sub-Objectives used for Evaluation. See *Evaluation Form* for additional explanation:
   1. Uses critical observation of self and others as a tool for continuing learning and skill development.
   2. Makes productive use of available support resources, including classroom experiences, supervision from supervising attorney and input from teammates and other class members.
   3. Uses a systematic approach to lawyering.
   4. Represents clients competently, effectively, zealously, and ethically.
   5. Establishes and maintains a professional relationship with clinic clients.

IV. Attendance Policy

Regular attendance and participation is critical in the Health Law Clinic. Classroom attendance is expected unless illness or an unavoidable conflict interferes. Anticipated classroom absences should be communicated to the professor beforehand via e-mail or telephone, if possible.

Clinic work will require students to have case-related meetings and appointments. Any unapproved absence on a case-related commitment may affect a student's grade. Students are expected to meet their case commitments with the same professionalism expected of licensed attorneys.

V. Evaluation and Grading

The Health Law Clinic is a three-credit course with no final examination. Grades will be based on a combination of casework performance (80%) and class performance (20%). The course evaluation form will be posted on TWEN

A. Clinic work – Students are required to spend a minimum of 70 hours working on client cases or Legal Services clinic-related research, as assigned. This does not include time spent in class or class preparation. Although students may work on cases in teams, they are graded individually based on their individual efforts and contributions to the project.

After students complete the required clinic hours, they may agree to continue to work on client cases. If students accept additional client case work or research, they will be expected to complete the work as promised.

Students will keep track individually of their time spent on each project on the electronic file's *Activity/TimeKeeping Spreadsheet*, as if they were actually billing the client and as required by our clinic policies. The *Sign-In Sheet* at the Clinic Office desk is not used for record-keeping.

Students must keep track of their individual hours for all Clinic cases and encouraged to report their hours to faculty weekly. Students will report their hours to faculty at mid-term and end of the term. Students are expected to complete their required clinic hours on or before Monday, May 13, 2013, unless prior approval of faculty is given to complete a client assignment.

Written Work Projects are to be submitted to faculty in WORD or pdf format.

Evaluation feedback regarding clinic work projects may take five forms:

1. Informal, oral evaluation by the supervisor of the student's performance contemporaneously with, or immediately after the performance;

2. Feedback to be provided formally and informally through margin notes and rewrites, with comments on legal research and legal theory development and persuasiveness of arguments and use of facts as applied to the law. Poor organization and sloppy drafting interfere with persuasion. Students are encouraged to revise and resubmit work for self-development;

3. Prior to the mid-semester and the final evaluation conference, each student will complete and submit to faculty, the formal self-evaluation form with clinic hours.

4. Completion by Faculty supervisor of an evaluation form at the end of the semester.

B. Classroom Participation – **Check TWEN for Class assignments prior to class. Assignments are posted one week before they are due.**

This course is designed to be interactive with opportunities for simulation-based learning during class. Students should come to class prepared to discuss the course material and actively participate in class discussions and activities. Class participation will account

for 20% of a student's grade. "Participation" is based on attendance, preparedness, and thoughtful classroom commentary.

VI. Laptop Policy

Laptops may be used in class to take notes and to look up statutes or class materials. Use of laptops for anything other than class work is not permitted. The Clinic is an interactive class requiring your complete attention and participation.

Course Schedule[1] – 2013

Date	Topic/Activities/Assignments
Aug 22 Class 1	**Topical Class: Introduction/Overview of Clinic substantive law – Minnesota's background study law and procedures.** Assigned Reading: • Jon Geffen & Lindsay Davis, *Minnesota's Healthcare Licensing Laws and Their Hidden Impact on the Working Poor*, 31 Hamline J. Pub. L. & Pol. 63 (Fall 2009) [available on WestLaw] • Minn. S.Ct. *Student Practice Rules,* Rule 2 Clinical Student Practice. [posted on TWEN] • Minn. Stat. Chap. 245C – Human Services Background Studies Law • Council on Crime and Justice, *Criminal Records in the Hiring Process: what records employers can use, and how to help your clients take some control of their background checks*, undated handout. [posted on TWEN] • Minn. Legal Serv. Coalition, Fact Sheet 2, *DHS Disqualifications*, July 2011. [posted on TWEN]
Between Aug 22 – Aug 29	**Schedule orientation to Clinic with Student Director** Complete Required forms in the *Clinic Student Packet,* posted on Twen: • *Clinic Student Information Form* [to faculty] • *Confidentiality Agreement* and the *Hamline University School of Law Clinic Policy on Gifts from Clients,* pages 4 and 5 [to faculty] • *Student Certification For Clinical Student Practice* form, page 6 of the Packet. Turn this form into the Clinic Office. If you do not complete the form, you will be unable to work on clinic cases with clients.
Aug 29	**No Class – Convocation**
Sept 5 Class 2	**Skills Class: *Focus on Professional responsibility and establishing a professional relationship*** Assignment: prepare to act as the attorney and client in assigned role play situations.

[1] Schedule subject to change based on clinic cases and other related learning opportunities.

Date	Topic/Activities/Assignments
	Prior to class, research and identify the rules applicable to each role play situation. • Minnesota Rules of Professional Conduct, Minnesota Rules of Court book on Reserve in the Law Library or http://www.mncourts.gov/lprb/05mrpc.html • *Minnesota Rules of Civil Procedure* Rule 17. Parties Plaintiff and Defendant; Capacity • Minn. Stat. § 595.02 (witness privileges) • Krieger & Neumann Text, chapters 1-6, pp. 3 – 61. Class 2 Fact Situations and research questions will be posted on TWEN
Sept 12 Class 3	**Skills Class: *Focus on Interviewing*** Assignment: Each student will present an issue related to this interview to the class During Class: • Students will prepare for their first interview with the client • Opportunity for interview role playing Krieger & Neumann Text, chap. 7 - 8, pp. 65 – 108.
Sept 19 Class 4	**Engagement agreements, time-keeping, and billing** • Minnesota Rules of Professional Conduct, Rules 1.2, 1.5, 1.15, 1.16 • "Nonrefundable Retainers & Other Oxymorons", by Kent A. Gernander, *Bench and Bar of Minnesota*, February 2009. http://www.mnbar.org/benchandbar/2009/feb09/prof_response.html • "Billing Your Clients: Seven Deadly Sins", by Michael J. Ford, *Bench and Bar of Minnesota*, October 2006. http://www.mnbar.org/benchandbar/2006/oct06/billing.htm • "Value Billing and Marketing Your Practice", by Trey Ryder, *Bench and Bar of Minnesota*, February 2002. http://www.mnbar.org/benchandbar/2002/feb02/lawyer-at-large.html **Assignment:** Using your time-keeping records, prepare a bill showing hours worked, description of services, and fees for the work that you have done for your clinic case. Forward to faculty prior to class. Present bill to class for discussion.
Class 5 Sept 26	**Skills Class: *focus on fact analysis*** Assignment: prepare a legal analysis chart, as found in Chapter 11, pages 144 to 145 in text, for your clinic case based upon the information that you have gathered. Discuss your case and chart in class. • Krieger & Neumann Text, chap. 10 - 12, pp. 131 - 158.
Class 6	**Case Rounds: focus on investigation and gathering evidence.**

Date	Topic/Activities/Assignments
Oct 3	Assignment: Prepare to present a fact investigation issue to the class. Use class discussion to help you identify sources of information helpful to your case. • Focus on Case Planning by identifying information relevant to your case and how to obtain this information, such as personnel files, internal investigation records, past decisions. • Krieger & Neumann Text, chap. 9, pp. 109. -131.
Class 7 Oct 10	**Case Rounds: Identifying and working through an ethical issue in your case.** Assignment: Prepare to present an ethical dilemma for class discussion based on your clinic case. Available reading and students are encouraged to find other articles relevant to their clinic case: • Klausing, Craig D., *Dealing with a Client with Diminished Capacity,* Minnesota Lawyer (October 3, 2005). • Wittenberg, Elizabeth, *Are your clients making you crazy? How to avoid drama with maddening clients,* Bench & Bar (March 2011) http://mnbenchbar.com/2011/03/are-your-clients-making-you-crazy/
Oct 17	**No class - Break**
Class 8 Oct 24	**Topical Class: *Expungement to avoid disqualification*** Assignment: to be determined • Minn. Stat. Chap. 609A – expungement • Minn. Stat. § 245C.08, subd. 1(b) • *In the Matter of the Welfare of J.J.P.,* 831 N.W.2d 260 (Minn. 2013) • *State v. M.D.T.*, 831 N.W.2d 276 (Minn. 2013) • *State v.* R.H.B, 821 N.W.2d 817 (Minn. 2012)
Class 9 Oct 31	**Skills Class: *Focus on case theory and story telling*** Assignment: to be determined Krieger & Neumann Text, chap. 13 - 16, pp. 159 - 212.
Class 10 Nov 7	**Skills Class: *focus on administrative proceedings available to individuals working in health care facilities and agencies*** Assignment: Students will present to the class a review of the administrative or judicial proceeding that they have been working on. Prior to presentations, we will discuss and agree on topics. The presentation will cover at least the following topics and PowerPoint slides are encouraged: • State agency controlling proceeding • Time frames for submission of reconsideration requests and or appeals • Hearing officer's title and location • Opposing legal counsel representing governmental agency

Date	Topic/Activities/Assignments
	• Opportunity for discovery • Evidentiary standard at hearing • Burden of proof • Possible hearing results – decision or recommendation • Availability of agency decisions on-line
Class 11 Nov 14	**Case rounds:** ***analysis of current case issues*** Assignment: to be determined
Class 12 Nov 21	**Open Date**
Class 13 **Tue** **Nov 26**	**Last Class** **Case Rounds:** ***final case summaries and reports.***

<u>Possible Topics for Open Dates *[offered before and available again]:*</u>

- **Who is working in a health care organization? The credentials and requirements for individual health care personnel**

- **Background study efforts of health care workers at Federal level and in other states**
  - National Employment Law Project Memorandum to Continuing Care Providers Survey and Certification Group CMCS/CMS, Regarding: *Criminal Background Check Protections for Long-Term Care Workers,* Sept. 12, 2011 [posted on TWEN]
  - DHHS Office of Inspector General, *Nursing Facilities' Employment of Individuals with Criminal Convictions,* OEI-07-09-00110, March 2011 [posted on TWEN]

- **Maltreatment determinations and the DHS/MDH background studies law**

- **Vaccines & discrimination**

- **Appellate review of administrative cases – how much due process?**