

**HAMLIN UNIVERSITY SCHOOL OF LAW
HEALTH LAW CLINIC
SPRING 2009**

**SYLLABUS AND POLICIES
Clinic Professors: Susan Schaffer and Lindsay Davis**

I. READINGS

A. Required Readings

1. Peter Murray, *Basic Trial Advocacy*
2. TWEN course website. Students must enroll and provide an e-mail address.
URL is: <http://lawschool.westlaw.com/twen/default.asp>
3. Volunteer Lawyers Network DHS Training Materials
4. Supplemental materials to made available.

B. Recommended Readings

1. Minnesota Rules of Evidence
2. Minnesota Rules of Civil Procedure
3. Minnesota Office of Administrative Hearings Contested Case Proceedings Guide
4. SMRLS Policy Handbook

II. OFFICE HOURS AND CONTACT INFORMATION

We will set up appointments for each team to review your casework. These meetings and times will depend upon your schedule. In addition, you may contact Professor Schaffer or Professor Davis to set up additional appointments.

Susan Schaffer
sschaffer@visi.com
651-221-0683

Lindsay Davis
Lindsay.davis@smrls.org
651-894-6942

III. ATTENDANCE AND PARTICIPATION

Regular attendance and participation is critical in the Health Law Clinic. We are operating as a small law firm, and you will benefit from the opportunity to discuss your case theory and hone your advocacy skills in class. Attendance will be taken in each class. Due to the importance of class attendance in case development, two absences will be considered excessive. Class participation is taken into account in grading.

IV. 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.

V. COURSE GOALS AND OBJECTIVES

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. The cases involve Minnesota Department of Human Services maltreatment and disqualification issues. The clinic will provide students with substantive health law information, as well as experience working with clients, preparing legal documents, practicing negotiation and settlement, and litigating in an administrative law hearing.

C. Sub-Objectives: The Health Law Clinic has four major sub-objectives:

1. Critical Observation and Critique

Students will use critical observation of self and others as a tool for continuing learning and skill development. Most of a lawyer's learning, particularly in the area of practical skills, takes place after the student has left law school. In order to overcome ineffective practices and learn effective techniques, it is important for the student to develop the ability to observe him or herself and other attorneys in a careful manner.

2. Use of Supportive Resources

Students will make productive use of supportive resources available to them, in particular, suggestions by teammates and other class members and advice and supervision from their supervising attorney.

3. Practical Legal Organization and Case Management

Students will use a systematic approach to lawyering. They will perform the clinic portion of the class at Southern Minnesota Regional Legal Services (SMRLS) in Saint Paul. As such, they will use SMRLS' case management system in which they will:

- a. Maintain their case files in an organized fashion, in accordance with the case file organizational plan of the clinic.
- b. Keep accurate and complete narrative and time records of all activities undertaken in PIKA, the case management system at SMRLS.
- c. Be punctual and reliable in their dealings with clients, other attorneys, supervisors, courts, and administrative agencies. (E.g., return phone calls promptly, recognize and act on deadlines, relay regular progress reports to clients, etc.)
- d. Prepare the following case management documents for each case:
 - i. Interview: written preliminary interview objectives and questions, as well as a summary of client and witness responses.

- ii. Legal Summary: Summary of relevant statutes, rules, and cases involved in the client's case.
- iii. Scope of Representation: Clear retainer agreement and terms of representation letter.
- iv. Trial Notebook: Binder or file for each case with legal analysis, direct exam, cross exam, brief, opening and closing arguments, and any settlement or negotiation proposals or agreements.
- v. Closing or Transfer Letter: The purpose of this letter is to say goodbye and summarize the student's actions.
- vi. Additional Documents: SMRLS may require additional documentation in each case file. These documents will be explained more once a case has been assigned.

4. Zealous Client Representation

- a. Students will represent their clients competently, effectively, zealously, ethically, and respectfully.
- b. Students will discuss with clients their legal problems and identify for the client the legal issues that can be addressed by the student's representation.
- c. Students will explain the administrative process to the client and the possible achievable results of the process based upon efficient and thorough legal research and investigation of the client's case.
- d. Students will establish with the client the objectives for their case.
- e. Students will pursue their client's objectives energetically and tenaciously.
- f. Students will improve their pre-trial and trial skills (e.g., interviewing clients and witnesses, preparing and responding to discovery, organizing evidence, preparing witnesses, delivering opening and closing arguments, examining and cross-examining witnesses, making and responding to objections, etc.)
- g. Students will identify opportunities for settlement and negotiation and make settlement offers if doing so is in the best interest of the client.
- h. Students will develop a coherent theory of the case that combines facts and applicable law into a coordinated approach to the case designed to persuade the decision-maker.
- i. Students will analyze their obligations under the Code of Professional Responsibility and their own values systems.

VI. EVALUATION AND GRADING

The Health Law Clinic is a three-credit course with no final examination. Students will be expected to spend a minimum of 70 hours working on client cases in addition to class time and class preparation. Although students work in teams, they are graded individually based on their individual efforts and contributions to the client representation.

Evaluation of students in the clinic will take five forms:

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

2. Written critiques of the student's performance and written work;
3. Completion by students of formal self-evaluation forms at mid-semester and at the end of the semester.
4. Completion by supervisor of an evaluation form at the end of the semester.
5. Assignment of a letter grade, to be determined based on the student's performance in each of the four major sub-objectives described in Section IV.B, using the attached evaluation form. Class participation is taken into account in grading.

(Place "x" to indicate position on continuum)

C. USES A SYSTEMATIC APPROACH TO LAWYERING (20% of grade)

Clinic Standard

Keeps accurate, timely, and comprehensive narrative and time records of all activities undertaken in cases; organizes client files in systematic fashion appropriate to the case and consistent with SMRLS procedures; revises and uses SMRLS to track work; is punctual and reliable in dealings with clients, other attorneys, supervisors, courts and administrative agencies; checks mail box daily and promptly returns telephone messages; regularly informs clients of the progress or lack thereof on their cases; adheres strictly to deadlines and promises.

Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

D. REPRESENTS CLIENTS COMPETENTLY, EFFECTIVELY, ZEALOUSLY, AND ETHICALLY (50% of grade).

1. Interviewing: Develops interview plans and objectives in advance; does sufficient advance legal research to answer anticipated client questions; uses active listening and empathetic responses to develop client trust; does advance research and prepares adequately for cross-cultural interviews; follows suggestions for interviewing effectively through interpreters; consistently obtains relevant facts and ascertains client objectives in interviews of reasonable length.

Rating

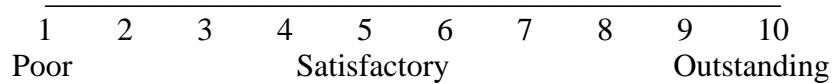
1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

2. Client counseling: Develops rapport with clients and works to attain a high level of trust that allows client to share facts and objectives; works hard to see the factual situation from the clients' point of view putting aside personal bias; communicates effectively with clients of different class, gender, race, and cultural backgrounds; explains the applicable law, potential legal theories, and alternative strategies using words appropriate for the clients' level of understanding; actively

involves clients in strategic decisions and chooses strategies that meet clients' actual needs.

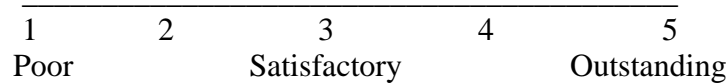
Rating



(Place "x" to indicate position on continuum)

3. Legal research and legal theory development: Identifies all legal issues relevant to clients' problems; completes and memorialize all legal research necessary to advise clients of their rights; develops theories of the case that are creative, take into account the clients' interests and the audience (decision-maker), and result in maximum persuasiveness.

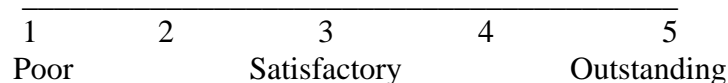
Rating



(Place "x" to indicate position on continuum)

4. Written product: Initial drafts and final versions of all correspondence, inter- and intra-office memos, settlement proposals, and pleadings and briefs, reflect thorough preparation, are thoughtfully planned with overall theory of the case in mind, and are skillfully executed so as to contribute maximally to the persuasiveness of the case; transfer and/or closing memo guidelines strictly followed giving new students and supervisor a comprehensive view of work completed and strategic plan for next six (6) months; transfer or close-out letter to clients accurately summarizes work performed, adequately reassures clients of continued representation (if case remains open), and clearly delineates unfinished tasks for clients to complete (if any).

Rating



(Place "x" to indicate position on continuum)

5. Oral advocacy and hearing preparation: Trial notebook prepared for each appearance; preparation completed sufficiently in advance of hearing to timely allow for moot court and preparation of all witnesses; oral argument reflects thorough preparation, is thoughtfully planned with overall theory of the case in mind, and skillfully executed so as to contribute maximally to the persuasiveness of the case.

Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

6. Zealous Representation and Negotiation: Uses creativity, resourcefulness, perseverance, initiative, follow-through and hard work in attempt to achieve clients' objectives at hearing or in settlement negotiation; without prompting from supervising attorney, takes those extra steps which may be necessary to overcome initial obstacles and problems which prevent or hinder the accomplishment of clients' objectives.

Rating

1	2	3	4	5	6	7	8	9	10
Poor			Satisfactory						Outstanding

(Place "x" to indicate position on continuum)

7. Professional Responsibility and Ethics: Regularly acts in a manner consistent with the Code of Professional Responsibility; recognizes situations which present close questions, either under the Code or under personal values, and actively and explicitly resolves those questions without prompting from supervisor; always extremely sensitive to client confidentiality, especially handling of client files and phone calls in clinic office and public settings; always vigilant to identify potential conflicts of interests and take responsibility to actively resolve them.

Rating

1	2	3	4	5
Poor		Satisfactory		Outstanding

(Place "x" to indicate position on continuum)

HEALTH LAW CLINIC
Course Schedule -- Spring 2009

Class 1	January 21	Clinic goals, evaluation methods, and basic case management
Class 2	January 28	Professional responsibility and zealous advocacy. Hypothetical questions.
Class 3	February 4	Overview of Minnesota criminal background study law and related cases in licensed health and human services providers, Minn. Vulnerable Adult law, and the Dept. of Human Services Fair Hearing procedures.
Class 4	February 11	Components of the client interview.
Class 5	February 18	Overview of Minn. Dept. of Health and Dept. of Human Services licensing statutes, rules and related cases.
Class 6	February 25	Developing a winning theory of the case through research and application to factual situation.
Class 7	March 4	Representing your client in an administrative hearing [Part I]: making the record with your direct exam, and cross exam.
Class 8	March 18	Overview of the rational basis for criminal background study laws: Field trip administrative hearing rooms, meet with ombudsman, nursing home or group home providers at work.
Class 9	March 25	No class – Spring Break
Class 10	April 1	Mid-term self-evaluation. Individual appointments with supervising attorney.
Class 11	April 8	Representing your client in an administrative hearing [Part II]: handling exhibits and making a closing argument.
Class 12	April 15	Negotiation and settlement opportunities in administrative proceedings.
Class 13	April 22	Status report on relevant health law issues: VAA reform efforts, federal criminal background check proposals, Minn. disqualification law amendments, Just Culture.
Class 14	April 29	Case wrap-up.

