

CLINIC PRACTICE PROGRAM (CLA)¹

2007 - 2008

SYLLABUS

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Our first meeting is on **Monday, September 10, 2007 at 12:30-1:15 pm**. At this initial meeting, we will discuss the expectations and requirements of the course. Prior to our first meeting, please ensure to have read the Syllabus, Education Plan, Expectations and Evaluation Form. The Education Plan identifies a number of areas in which you are to “evaluate your competence” at the outset of the term. This is intended to engage you in thinking about your abilities from two perspectives: gauging your current skill level across a range of lawyering tasks, as well as goal-setting with a view to improving these skills.

We will discuss these concepts further in our meetings, and I remain available and interested in your progress through the semester. I am looking forward to working with you in developing your professional practice skills, along with the CLA staff.

COURSE DESCRIPTION

This for-credit program is available to students enrolled in the Clinical Law Program, who wish to examine the law and have “hands on” experience of the law in action, through engaging in coursework in the context of a community legal aid clinic.

In the Clinic Practice Program, students interview, analyze, research, problem-solve and apply the law by advising clients and undertaking casework and other activities under the supervision of lawyers. They develop skills required in the workplace, and critically evaluate how law works in practice. Student work is continually assessed throughout the course and evaluated based upon an end-of-term evaluation, as well as periodic assessments in consultations and/or file reviews.

¹ The current version of Clinic Practice Program was designed and implemented by Professor Rose Voyvodic who passed away on April 16, 2007. Her dedication to clinical education, social justice and the clinics at the University of Windsor will never be forgotten.

LEARNING OBJECTIVES

- Developing and applying professional skills in the context of the actual work of lawyers;
- Acquiring habits of professionalism, professionally responsible conduct, and commitment to professional values;
- Developing an understanding of the need for and a commitment to providing access to justice and seeking justice.
- Understanding means of analysis and planning for attaining workable solutions for legal matters in the context of unstructured and often unpredictable situations;
- Attaining modes for learning from the experience of lawyering;
- Developing collaborative learning skills;
- Learning how to manage and balance the demands of acting in the role of the lawyer;
- Obtaining perspective on the application of legal doctrine to legal problems; and
- Obtaining insights into the capacities and limitations of lawyers and legal systems.

LEARNING OUTCOMES

In the Clinic Practice Program, students are trained to be skilled and ethical problem solvers, through learning about and performing skills effectively, and through observation of experienced practitioners. Successful students should be able to:

1. Identify the substantive, evidential and procedural rules relevant to client cases, their effect on the individual case and generally upon society and how the law is developed.
2. Apply the correct law, doctrines and concepts to the particular case, identifying practical strategies and alternative methods of managing the problem.
3. Demonstrate knowledge of legal ethics and values, and the professional and socio-economic context in which legal services are delivered.
4. Gather all relevant information about a legal problem from all appropriate sources, legal or non-legal, written or live sources.
5. Enable specialists and non-specialists to understand legal problems and present a logical argument about possible solutions in an appropriate format.
6. Identify different forms of legal research, devise research strategies, locate and select appropriate resources.
7. Perform advocacy skills within both alternative dispute resolution and tribunal contexts.
8. Work with others to set specified objectives and tasks, identifying own aims and responsibilities, and evaluate group and individual abilities and performance.

CREDITS

Students in the Clinic Practice Program at CLA may receive 4-6 credits per semester, based upon eligibility to enroll. The total number of Clinical Law Program credits any student may receive during their legal education is 11. **This course work is designed for 4 credits. Students who wish to receive 6 credits must obtain permission from Brian Rodenhurst who will base his decision, in part, on whether the student has demonstrated an exceptional commitment to clinic work during their tenure.**

ELIGIBILITY

Students who have engaged themselves at CLA by volunteering for a minimum of two semesters, or those who have been selected to work as summer students, may apply to CLA staff for consideration of eligibility. CLA staff will determine that a student has dedicated the requisite amount of advance work in the clinic, and will assess the potential of any given student to carry out their responsibilities within the context of the academic practice program.

ORIENTATION/ IN SERVICE TRAINING

Successful completion of the Clinic Practice Course requires completion of all compulsory orientation activities for each respective clinic. These will deal with (inter alia) the operation of the clinic, the significance of the 'Expectations', professional rules and confidentiality, and an introduction to client interviewing.

Each clinic has its own policies and procedures, which must be read and understood by the student, who signifies this by signing the sign, a copy of the 'Expectations for Clinic Practice Students'. **A copy of the Expectations form can be found on the CLEW course site.**

GRADING

This course is graded with a pass or fail. To have passed the course each student will have:

1. Attended all required meetings, workshops, and client interviews or appearances or made appropriate arrangements for non-attendance.
2. Planned and conducted casework and other clinic work as assigned.
3. Undertaken some strategic and background research and recorded findings accurately.
4. Demonstrated responsiveness to assessments and recommendations made by the evaluating lawyer(s) throughout the term.
5. Completed the course work including bi-weekly journal entries and court report.
6. Completed the end-of-term evaluation as requested.

EVALUATION OF STUDENT PERFORMANCE

(a) *Clinic Work*

Participation in the clinic requires that students perform a number of tasks in a wide variety of settings. These tasks include, but are not limited to: conducting interviews in the office and off-site when required; researching on-line and in the library; investigating facts; “theorizing” the client and the case; consulting with clinic staff and obtaining lawyer approval of chosen strategies; counselling clients (in the office, at their homes, and on the phone); drafting submissions and correspondence; advocating before courts, tribunals and in alternative dispute resolution settings; and recording the details of your work in memoranda and dockets to file. In addition to casework, students may also engage in other clinic activities, including preparing and presenting public legal education projects; meeting with staff of the clinic and other organizations to discuss and assess community needs; setting policies; and engaging in law reform and community development programs.

We expect that, as the person chiefly responsible for the development of a case, you will come to file review meetings having considered the various challenges you face and having identified several responses to them. You will be able to articulate these challenges and responses for your supervisor. We expect you to realize that rules of ethics, the law of evidence, common sense, and many other factors may favor some responses and constrain you in implementing others. We do not expect that any of this will come naturally or that each of you will enter your first supervision meeting with a plan that could be mistaken for that of an experienced lawyer. We do expect that your planning will show a serious application of time and effort and that, with time and effort, it will improve. Formative assessment on practical work will be given through formal contact with the clinic supervisor, through informal contact as cases progress, and through written feedback on draft documents. Students must redraft, receive feedback and resubmit work until it satisfies the quality standards for real legal services.

(b) End-Of-Term Evaluation

Expectations and factors to be considered in assessing student performance in each of area of clinic work to be evaluated are set out in the Evaluation Form, which each student completes at the end of the semester in conjunction with clinic staff. Performance and practical work will be assessed, through the supervisor's observations, records of progress and the student's own self-assessment based upon the criteria provided.

Students create a personalized "bench-mark" education plan after the first meeting with Professor Tanovich at the beginning of term, in which goals are set for the coming semester. This plan may be revised throughout the term, and will provide a reference point for assessing professional development at the end-of-term. **A copy of the Education Plan form can be found on the CLEW course site.**

End-of-term evaluations are due **November 21, 2007**. It is the responsibility of the student to schedule and complete each required evaluation meeting, the results of which determine the student's grade in the course. Students are encouraged to review the evaluation form often during the weeks preceding the actual evaluation period, as it is intended to help you evaluate their strengths and weaknesses, review personal development against your personal learning plan, and confirm supervising counsel's assessment of their performance. It should also help you reflect upon what you have already achieved and prepare you to learn more effectively in future. **A copy of the Evaluation form can be found on the CLEW course site.**

(c) Bi-Weekly Journal

Students are required to submit **five** journal entries in accordance with the following schedule and subject-matter. Assigned articles may be found on the CLEW course site. Each entry should be approximately 2-3 typewritten pages. The purpose of the journal is to provide the student with an opportunity to reflect upon a particular aspect of CLA practice. The focus of reflection this year will be on professionalism and legal ethics. It may be helpful for students to use the "what" rules to assist the reflective process. First, "what" am I writing about or reading? Second, "so what", why is this important? And finally, "now what", why is this important and what steps are required to move forward? All journal entries will be treated confidentially.

September 21

Please read Professor Voyvodic's *Lawyers Meet the Social Context: Understanding Cultural Competence* and reflect upon at least one illustration of an experience where cultural competence was an issue in the course of your representation of a CLA client. What steps might you have taken to address the concerns you have now identified?

October 5

Please read *Law's Ambition* and reflect upon an ethical dilemma you encountered while working at the clinic. Please explain what steps you took in attempting to resolve it and how you resolved it? Upon reflection, would you now act any differently?

October 19

Explaining confidentiality to a client is one of the most important yet difficult requirements of a competent lawyer. Has this been an issue for you? Please read Professor Ellmann's article *Truth and Consequences*. What contributions does it make to thinking about how to explain confidentiality to a client? How might CLA incorporate some of his ideas in its confidentiality document?

November 2

In this journal entry, I would like you to reflect on the advocacy and written work that you have been focusing on during this semester. Do you feel that you were able to accomplish what you set out to do in your Education Plan? Why or why not?

November 16

In this last entry, I would like you to reflect on your experience at CLA and that of your clients and to offer three recommendations for improvement. Please provide some explanation for why you see these as needed and how the recommendations could be implemented. References to relevant clinical literature would be greatly appreciated.

(d) Court Report

While this semester is focused on reflection, self-assessment and evaluation of your work at Community Legal Aid, I would also like to add a third-party assessment component. To that end, I would like you to attend and watch one complete Ontario Court of Justice criminal trial. For each trial, I would like you to prepare a 3-4 page report with your observations and reflection on these questions:

1. Who was presiding over the trial?
2. What was the accused charged with? How did the Crown proceed?
3. Was the accused represented? If not, what problems did this pose? How was it handled?
4. Did the conduct of the trial raise any ethical or professional responsibility issues? Were they addressed? To your satisfaction?

5. Did you get a sense that the accused understood what was going on? Did it appear that he or she felt that they were part of the proceedings?
6. To what extent did the trial judge maintain control over the proceedings?
7. To what extent was case-law relied upon by the lawyers? How familiar were counsel with the legal issues raised by the case? Were there any relevant legal issues that were not explored?
8. What aspects of the questioning of witnesses by defence counsel impressed you? Why? What aspects raised concerns? Why?
9. Did the client testify? If yes, how prepared were they?
10. Were defence witnesses called? How prepared were they to testify?
11. Was the client racialized? If yes, was this relevant to any of the issues raised by counsel? Was race part of the argument?
12. How helpful were the defence lawyer's submissions to the trial judge at the end of the case?
13. To what extent did counsel rely on case-law in their closing submissions?
14. Identify any other issues that you think are relevant and provide a brief commentary on why you have identified them and whether the issue was handled appropriately.

The report is due on December 3, 2007.

Good luck with the term.