If you anticipate barriers related to the format or requirements of this course, if you have emergency medical information to share, or if you need to make arrangements in case the building must be evacuated, please let Profs Drake or Filbert and Associate Dean Mitchell and/or Denise Boessen know as soon as possible.

If disability related accommodations are necessary (for example, a note taker, captioning), please let Associate Dean Mitchell and/or Denise Boessen know and they will help us make sure you are accommodated. For other MU resources for students with disabilities, click on "Disability Resources" on the MU homepage.

Veterans Clinic
Spring 2020
Thursday 8:00-10:00 am
Room 109

Supervising Attorneys/Instructors: Angela K. Drake and Brent G. Filbert

Meetings: (drop in and by appointment): Veterans Clinic, Room 120

Email: drakea@missouri.edu & filbertb@missouri.edu
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Drake: 417-276-1218
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I. Course Description

This course concentrates on serving veterans and/or their dependents pursuing disability related claims with the Department of Veterans Affairs (VA) and with discharge upgrades. Work will be conducted in a law firm type atmosphere. Each student will participate in actual cases and do work required by the files they are assigned. Some cases will be in the development stage, some cases will be at the first administrative level and some will involve appellate practice. In addition, students will assist with general clinical work, including helping with the symposium and/or writing educational pieces on veterans issues in amicus briefs or otherwise.

Specifically, students will learn fundamentals of effective advocacy in the following ways:

- learn and apply the legal aspects of veterans benefits law and discharge upgrades;
- learn client relationship and interviewing skills necessary to represent clients;
- develop writing skills, from letter writing to brief writing;
- seize opportunities to deliver presentations on veterans related topics to the public;
- appreciate the value of providing pro bono representation, and apply other ethical rules to their work; and
- develop skills necessary for effective time management as an attorney

Assessment: formative and summative
II. Course Materials

The casebook for this class will be:

Veterans Benefits Manual (Lexis Nexis) (available in Clinic Office)
Federal Veterans Laws, Rules and Regulations (available in Clinic Office)

III. Attendance and Assignments

Attendance is mandatory. Please come to class fully prepared to discuss the status of your cases and projects upon request. As a general rule, there are no excused absences. We will reconsider this general rule on a case-by-case basis. Every absence will reduce your grade by 5 points unless the Professors make an exception. If there is an emergency or illness, contact one of the professors by phone or email; they will not ask private details but do need to hear from you before class if you are unable to attend.

Written assignments are due as assigned by your supervising attorney (Profs Drake or Filbert). Late assignments will hurt your grade. Please remember that you will be working on real cases with real clients. Timeliness is essential!

*In addition to attendance in our weekly class, you will be required to work 150 hours on Clinic matters outside of class. The billing period for the semester runs from the first day of class to the last day of finals. You will record your time in CLIO, our software program. Given the nature of the clinic, some weeks may require that you bill more time than the approximately 11 hours per week necessary to meet 150-hour requirement. Efforts will be made to lighten the load in subsequent weeks. Please note this is a weekly commitment. You cannot wait to do all your work until the end of the semester.*

You will also meet with the supervising attorney individually once per week and prepare a weekly “Monday memo.” This memo and these meetings are billable time.

IV. Grading

Grading will be based on the Veterans Clinic Grading Matrix attached hereto. You will self-assess according to the Matrix at the end of the semester. You should consider keeping a journal during the course of the clinic that will help you with your self-assessments. Note, your weekly memo will be a helpful guide when you self-assess at the end of the semester.

Your grade will be based upon the quality of your work for the client and clinic (50%) and your self-assessments (25%). The remaining 25 percent of the grade will be based upon your attitude, willingness to work, overall effort and contributions to the clinic.

V. Communication and Meetings

We will have class once a week as a group. In this class, we will spend a portion of the time discussing substantive aspects of veterans’ law, and a portion of the time we will review and discuss
case files. We will have guest speakers throughout the semester. We may also visit destinations, including courthouses, the hospital and attorney offices.

We are always available to discuss your work for the Clinic and on our files throughout the week by phone, email or in person.

Email is an important means of Clinic communication. Check it DAILY! Respond to all email, even if it is as simple as “got it”, within 24 hours of the email. It is imperative to the supervising attorneys that we are assured you are reading your email.

_We expect to hear from you at least once a week outside of class, via email or otherwise, with a report on the tasks accomplished. This is usually done in the Monday memos but email throughout the week is welcome. Again, we will also have weekly one-on-one meetings during the semester. By all means, feel free to contact us as often as needed – this is a law practice after all._

_Mark your calendars: you are required to prepare “Monday memos” which highlight the work you will accomplish in your eleven hours that week. We will make comments each week on your memos (or discuss with you the contents of your memos) to make sure we are communicating and you stay on track. You need to use the memos to guide your work through the semester. Plan accordingly._

The Clinic is very fortunate to have the part-time services of Dr. Dennis Velez, M.D. He is a neurosurgeon who has great experience in VA cases. Your supervising attorney will coordinate meetings with Dr. Velez regarding your cases or other issues. You should plan to attend all meetings with Dr. Velez regarding your cases (or any other consulting expert), unless such a meeting conflicts with one of your other classes. For planning purposes, he will be available in the Clinic spaces to consult on cases on the following days:

- February 5, 2020: 1-3 pm
- March 4, 2020: 1-3 pm
- April 1, 2020: 1-3 pm
- May 6, 2020: 1-3 pm

Dr. Velez can be available for additional meeting times upon request.

**VI. Academic Integrity**

Academic integrity is important. Follow the Honor Code. If you have any questions about your work as it relates to the Honor Code, consult us immediately.

**VII. Drop Policy**

Because the course involves work with real clients, students wishing to withdraw from the class must do so by **3 p.m. on January 28, 2020.** Absent extraordinary circumstances, students dropping the course after that date will receive failing grades.

**VIII. Additional Information about Your Obligations to the Clinic**

Remember the covenants that you will sign on the first day of class. Among other things, if you work for a law firm outside of the clinic, the supervising attorneys must be advised and we must
handle conflict checks. You must read the rules of Professional Responsibility. You must respect the privacy interests of our clients, and hold their information confidential.

**IX. Assignments/Class Schedule:**

Please note that this is a general overview of the topics we will cover; the schedule and topics may change based on the work of the clinic and as our cases require. All assignment materials are in the folder for that particular class on Box, unless otherwise noted.

**Lecture/Class Schedule:**

**Class 1 – January 23**

Lecture Topics: Do’s and Don’ts; How to Work a File; Overview of Clinic Cases; Military Basics and Justice

Assignments Due:

- Follow all instructions emailed by the Clinic Admin Assistant and complete the pre-first class requirements set forth in the Student Guide (page 2). The Student Guide is in the Spring 2020 Class Materials folder in Box as well as on the Electronic Bulletin Board. **Please note there will be a quiz on the Student Guide on the first day of class.** This quiz is to ensure you are ready for a semester of hard work.
- Peruse the Box files relating to your clients in order to get familiar with status. Ensure you read the most recent transition memo in the client file, if one has been prepared. There is no need to ready every medical record or memorize the contents of the entire file.

**Class 2 – January 30**

Lecture Topics: Overview of Federal Veterans Benefits Law; Veterans Appeals Modernization Act

Assignments Due:

- Benefits Law: Skim Chapters 2, 3, 5 (up to Section 5.3) and Chapter 6 of the VBM
- Skim overview of the AMA at https://benefits.va.gov/benefits/appeals.asp

**Class 3 – February 6**

Lecture Topics: Medical Research Training; Dr. Dennis Velez (neurosurgeon) will address his work as an expert in VA and other types of cases, Independent Medical Exams (IMEs) and Disability Benefits Questionnaires (DBQs)

Assignments Due:

- Read example expert referral letters and Dr. Velez DBQ and narrative attachment in Rogers
Class 4 – February 13 - Visit to Truman VA Medical Center

Class 5 – February 20

Lecture Topics: Military Discharge Upgrades; VA Character of Discharge Reviews

Assignments Due:

- Military Discharge Upgrades: Read the Kurta and Wilkie Memos, and Shine and Topolski briefs and 32 C.F.R. 70.
- VA Character of Discharge: Read Diggs character of discharge brief, 38 C.F.R. 3.12 and skim VBM Chapter 21

Class 6 – February 27

Lecture Topics: Effective written advocacy before administrative agencies, including VA; Military Disability System by Guest lecturer Thomas Faragoi (Medical Evaluation Board Counsel, Fort Carson, Colorado)

Assignments Due: TBD

Class 7 – March 5

Lecture Topics: Total Disability Individual Unemployability (TDIU) and Special Monthly Compensation (SMC); Processes to Obtain and Organize Medical and Other Records

Assignments Due: TDIU and other SMC Benefits: Read the Reed BVA decision and the Gillespie May 2018 NOD Supplement

Class 8 – March 12

Lecture Topics: How to Work with Experts; Guest lecture by Dr. Daniel Slawski (orthopedic surgeon)

Assignments Due: TBD

Class 9 – March 19

Lecture Topics: VA Adjudication Process; Common Errors in VA Adjudication; Roundtable discussion among students regarding their cases

Assignments Due:

- Common Errors in VA Adjudication: Skim VBM Chapter 14 and identify VA errors in your cases
Class 10 – March 26

Lecture Topics: Survivor and Dependents Benefits; PTSD, TBI; and MST Claims

Assignments Due:

- Survivor and Dependents Benefits: Skim VBM Chapter 7; review Nancy Jones DIC submission
- PTSD, TBI and MST: read Nicole Fuller Case Study in Box, and Pracht’s Coding Sheet

Class 11 – April 2

Lecture Topics: VA Medical Malpractice – Section 1151 v. FTCA claims; Key Ethics Rules in Veterans Law

Assignments Due:

- VA Medical Malpractice: Read the Draughon verdict and news article
- Key Ethics Rules: Read Nashiri decision

Class 12 – April 9

Lecture Topics: VA Treatment Courts – Guest Speaker Casey L. Clevenger (Treatment Court Commissioner, 13th Judicial Circuit); Veterans benefits and/or legal protections available to veterans and military personnel presented by Scotty Allen, Missouri Veterans Commission General Counsel

Class 13 – April 16

Lecture Topics: Appellate Practice before CAVC, Federal Circuit Court of Appeals, and Supreme Court; Effective Advocacy at Administrative Hearings

Assignment Due:

- Appellate Practice: Skim the CAVC Counsel Guide; Read the Rule 33 Memo in Gildersleeve; Read the Federal Circuit opinion in Procopio

Class 14 – April 23

Lecture Topics: Class Jeopardy

Assignment Due:

- Review materials from prior classes to prepare for Jeopardy
A. Skills – 10 Points per Skill

Skill 1: Problem Solving
1.1. Identifying and diagnosing the problem
1.2. Generating alternatives, solutions and strategies
1.3. Developing a plan of action
1.4. Implementing the plan
1.5. Keeping the planning process open to new information and new ideas

Skill 2: Legal Analysis and Reasoning
2.1. Identifying and formulating legal issues
2.2. Formulating relevant legal theories
2.3. Elaborating legal theory
2.4. Evaluating legal theory
2.5. Criticizing and synthesizing legal argument

Skill 3: Legal Research
3.1. Knowledge of the nature of legal rules and institutions
3.2. Knowledge of and ability to use the most relevant tools of legal research
3.3. Understanding the process of devising and implementing a coherent and effective research design

Skill 4: Factual Investigation
4.1. Determining the need for factual investigation
4.2. Planning a factual investigation
4.3. Implementing the investigation strategy
4.4. Memorializing and organizing information in an accessible format
4.5. Deciding whether to conclude the process of fact gathering
4.6. Evaluating the information that has been gathered

Skill 5: Communication
5.1. Assessing the perspective of the recipient of the communication
5.2. Using effective methods of communication

Skill 6: Counseling
6.1. Establishing a counseling relationship that respects the nature and bounds of a lawyer's role
6.2. Gathering Information relevant to the decision to be made
6.3. Analyzing the decision to be made
6.4. Counseling the client about the decision to be made
6.5. Ascertaining and implementing the client's decision

Skill 7: Negotiation
7.1. Preparing for negotiation
7.2. Conducting a negotiation session
7.3. Counseling the client about the terms obtained from the other side in the negotiation and implementing the client's decision
Skill 8: Litigation and Alternative Dispute Resolution Procedures
8.1. Litigation at the RO and BVA levels
8.2. Litigation at the appellate level
8.3. Advocacy in administrative v. judicial forums
8.4. Proceeding in dispute resolution before the CAVC

Skill 9: Organization and Management of Legal Work
9.1. Formulating goals and principles for effective practice management
9.2. Developing systems and procedures to ensure that time, effort and resources are allocated efficiently
9.3. Developing systems and procedures to ensure that work is performed and completed at the appropriate time
9.4. Developing systems and procedures for effectively working with other people
9.5. Developing systems and procedures for efficiently administering a law office

Skill 10: Recognizing and Resolving Ethical Dilemmas
10.1. The nature and sources of ethical standards
10.2. The means by which ethical standards are enforced
10.3. The process for recognizing and resolving ethical dilemmas

B. Values – 25 points per value

Value 1: Provision of Competent Representation
1.1. Attaining a level of competence in one’s own field of practice
1.2. Maintaining a level of competence in one’s own field of practice
1.3. Representing clients in a competent manner

Value 2: Striving to Promote Justice, Fairness, and Morality
2.1. Promoting justice, fairness, and morality in one’s own daily practice
2.2. Contributing to the profession’s fulfillment of its responsibility to ensure that adequate legal services are provided to those who cannot afford to pay for them
2.3. Contributing to the profession’s fulfillment of its responsibility to enhance the capacity of law and legal institutions to do justice

Value 3: Striving to Improve the Profession
3.1. Participating in activities designed to improve the profession.
3.2. Assisting in the training and preparation of new lawyers
3.3. Striving to rid the professions of bias based on race, religion, ethnic origin, gender, sexual orientation, or disability, and to rectify the effects of these biases

Value 4: Professional Self-Development
4.1. Seeking out and taking advantage of opportunities to increase his or her knowledge and improve his or her skills
4.2. Selecting and maintaining employment to pursue his or her professional and personal goals.
4.3. Networking and building professional relationships

GRAND TOTAL [200 Max]