



RHODES UNIVERSITY

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Grahamstown • 6140 • South Africa

FACULTY OF LAW • Tel: (046) 603 8427/8 • Fax: (046) 6228960

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LEGAL PRACTICE 2019

1. INTRODUCTION

1.1 Overview

The Legal Practice course is a compulsory semester course undertaken in either the first or the second semester of the penultimate year of the LLB degree.

The purpose of the course is to educate students with the skills needed to manage a typical attorney's file, conduct consultations with clients, communicate effectively, and to draft certain civil pleadings and applications.

Since the course teaches practical skills, varied and innovative teaching and assessment methods, such as simulated consultation exercises, are used to achieve learning.

There is no written examination, and the course is assessed by means of a number of pieces of oral and written work undertaken during the course. Students who fail the course have to repeat the entire course.

Students are required to work at the Law Clinic as a component of the course, involving appropriate assessment methods (see paragraph 6 below). Law Clinic work is integral to the course, and simultaneous classroom and experiential learning has proven to be a powerful tool for teaching and learning of practical skills.

1.2 Credit Value

10 credits.

1.3 Assumptions of Prior Learning

In order to be able to successfully complete this course, students must:

- be able to write and speak good, fluent English;
- have a working knowledge of the law of civil procedure, the law of contract and the basic principles of the law of delict (*see note below*);
- be capable of independent learning;
- be able to work in groups.

Note: by “working knowledge” is meant:

- in the case of civil procedure, the nature and purpose of certain pleadings and applications;
 - in the case of the law of contract, the remedies for breach of contract;
 - in the case of the law of delict, the elements of a delict.
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2. OUTCOMES

2.1 Critical Outcomes

Students will be able to:

- a) identify and solve problems
- b) work in a team
- c) organize and manage themselves
- d) collect, analyse and evaluate information
- e) communicate effectively
- f) recognize problem solving contexts
- g) be culturally sensitive

2.2 Intended Specific Outcomes

At the end of the course, students will be able to achieve the following outcomes:

- To manage a typical attorney’s file.
 - To conduct a proper consultation with a client and write a consultation note.
 - To draft letters and communicate effectively with clients, attorneys and other parties.
 - To draft certain civil pleadings, applications and court documents.
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3. TEACHING METHODS

The teaching method adopted is *learning by doing*. Double lecture periods are used as follows:

- The course material is presented in the form of lectures based upon discussion of practical examples, such as precedents of pleadings.
- Students are required to complete written or oral exercises in class (e.g. to practice consultation or drafting skills).

Outside lecture periods, students are required to complete other tasks, including consultation exercises and other assignments. In addition, students learn file management, consultation, communication and drafting skills via their supervised practical case work with clients at the Law Clinic.

4. COURSE CONTENT

Professional Conduct

- Selected areas of legal ethics

Consultation skills

- Consultation Assessment

Communication skills

- Letter-writing skills
- Other modes of communication

Drafting skills:

- Generic drafting skills
- Drafting pleadings in civil actions:
 - Particulars of claim
 - Plea
- Drafting applications and affidavits

5. RESOURCES

Marnevic *Litigation Skills for South African Lawyers* 3rd ed, (2012) Butterworths: Durban (on short loan).

Stilwell, P. (ed); *Clinical Law in south Africa*; 2nd ed, LexisNexis Butterworths, Durban (2016).

Hoffman. IM, *Lewis & Kyrou's Handy hints on legal practice*, 2nd ed (2011) LexisNexis.

Palmer, Crocker and Kidd *Becoming a lawyer: fundamental skills for law students*, Lexis Nexis Butterworths, Durban (2007)

Lewis, EAL *Legal Ethics, a guide to professional conduct for South African Attorneys*, (1982) Juta, Cape Town

Rhodes University Law Clinic Student Instruction Manual.

Jones & Buckle *Civil Practice of Magistrate's Courts in SA*, 10th ed (2012), vols 1 and 2, Juta & Co: Cape Town; loose leaf, last updated in 2018.

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LTC Harms Amler's *Precedents of Pleadings*, 8th ed (2015) Lexis Nexis: Durban.

S.Pete *et al*, *Civil Procedure: A Practical Guide* 3rd ed (2016) Oxford University Press, Cape.

6. STUDENT ASSESSMENT

6.1 TYPES OF ASSESSMENT

The course makes use of a diverse approach to assessment. Students are assessed on a continuous basis using a variety of assessment methods. As there is no examination for the course, students who fail the course will have to repeat the entire course.

The following list reflects the assessment methods used in the course and the percentage allocation of the assessment towards the students' final course mark.

Test	20
Consultation Assessment	20
Class Assignment	20
Continuous Assessment	<u>40</u>
	<u>100</u>

Test

Content

Students are required to write one test in the course. The test focuses on selected content from the student manual that forms the basis of prior knowledge required to complete the course successfully. The test focuses on the drafting of applications and involves both theory and drafting questions.

Procedure

The test will not be written outside of lecture periods, but during a lecture time to be set by the lecturer concerned.

Consultation Assessment

Content

This form of assessment simulates a client consultation and students are graded on the basis of set criteria to be provided at a later stage. The assessment focuses on the ability of a student to demonstrate the skills of fact-gathering, problem analysis, and problem-solving skills. Each student conducts a 30 minute consultation with a client in the presence of two assessors (usually one supervising attorney and an assistant), who grade the student on his/her performance. After the 30 minute consultation, the student is required to record the session by means of a full consultation note which is also graded according to set criteria. All sessions are conducted in English.

Procedure

All consultation assessment sessions are a maximum of 30 minutes long and are conducted on the Clinic premises over a period of one week, depending on the number of students. The sessions are reserved for the afternoons, beginning at 2:00pm and ending at 4:30pm.

The consultation assessment timetable is drawn up by the course coordinator, and students preferably do their assessment during their usual "client hour" slot. A full brief on this assessment will be given during lectures.

Class Assignments

One class assignment is set during the course and is designed to test students' ability to draft pleadings. The assignment question is set by the lecturer responsible for the subject matter. All assignments submitted must have the compulsory faculty cover page which includes the plagiarism declaration.

Continuous Assessment

Content

In addition to the above assessments, students are assessed on a continuous basis on their work at the Clinic. Upon arrival at the Clinic, student groups are required to arrange file presentation times with their supervising attorneys. This is a one hour slot every week, where the groups will conduct file consultations or file presentations with their supervising attorneys. During this hour, students will report on the status of their files, the legal issues in question and the appropriate steps required to address the legal problem. Guidance is offered to the student by the supervisors. During every three-week cycle, supervisors will assess students using the Continuous Assessment Criteria (see clinic manual for full criteria).

6.2 ASSESSMENT OUTCOMES

Specific Outcomes	Assessment Criteria	Assessment Tasks
At the end of this course, students must be able to:	The evidence students must provide in order to show that they are competent	How evidence of competence is collected
1. Manage a typical attorney's file	Demonstrate the following: <ul style="list-style-type: none"> • Correct problem analysis and planning of strategy • A proper record of every attendance in each case • Proper file appearance and order 	<ul style="list-style-type: none"> • Examination of students' Law Clinic files. • Oral file consultation sessions.
2. Conduct an effective consultation and write a consultation note.	Demonstrate the ability to: <ul style="list-style-type: none"> • Establish an effective working atmosphere • Learn a client's goals and expectations • Gather a comprehensive set of facts • Analyse the client's problem 	<ul style="list-style-type: none"> • Consultation exercise and assessment. • Examination of students' Law Clinic files. • Oral file presentation sessions.

	<ul style="list-style-type: none"> • Give correct advice • Obtain instructions • Effectively conclude consultation • Draft a thorough and correct consultation note • Deal sensitively and professionally with cultural and language differences 	
3. Draft letters and communicate effectively with clients and others.	<p>Demonstrate the ability to:</p> <ul style="list-style-type: none"> • Draft a letter of demand • Draft a response to a letter of demand • Use correct grammar • Use letters to report and record information • Use certain legal principles and devices effectively • Communicate effectively using the telephone 	<ul style="list-style-type: none"> • Examination of students' Law Clinic files. • Oral file presentation sessions.
4. Draft certain pleadings and applications	<ul style="list-style-type: none"> • Explain the essential purpose of different types of pleadings, namely: <ul style="list-style-type: none"> - particulars of claim - plea - applications • Draft these pleadings and applications or certain sections thereof. • Describe the necessary allegations to be made in court pleadings and applications. 	<ul style="list-style-type: none"> • Written assignment in which students are required to draft certain pleadings. • Tests in which students may be asked to draft the above documents.

7. EVALUATION

This course is evaluated by the students by completing a course evaluation form that requires students to respond to specific questions that invite them to make comments about good and bad aspects of the course.