

THE VETERANS ADVOCACY CLINIC

CLINIC MANUAL: POLICIES, SOPS, AND OTHER GUIDELINES

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The Veterans Advocacy Clinic Manual: Welcome to the Clinic!

THE VETERANS ADVOCACY CLINIC MANUAL: POLICIES, STANDARD OPERATING PROCEDURES AND OTHER CLINIC GUIDELINES

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WELCOME TO THE CLINIC!

What you should expect during your time here

Students can expect classroom instruction and student work related to filing disability compensation claims with the Department of Veteran Affairs. This includes:	Filing a new claim for a veteran; Re-opening an old claim that missed a prior deadline; Appealing the denial of above claims; Filing requests for increases in approved disability compensation; Managing client expectations; developing appropriate client relationships; Helping an active duty service member get medical retirement; and Other Special assignments (PEB, DRO, BCMR; Oral advocacy).
All students will receive training on the steps involved in all of the potential assignments above. Specific training areas include:	Filing a disability claim and researching procedures of different disability-related processes; Conducting an initial or follow up interview for your client and/or sworn statements/buddy statements for "witnesses"; Analyzing medical records; Requesting and coordinating medical examinations (working with medical students to create a psychological test appointment, etc.); and Preparing client claims submissions (legal research and brief writing).
Students will also have the opportunity to participate in other special required activities, including:	One military-related movie night; Community outreach (teaching and helping veterans with the process of filing the claim); Weekly case status meetings with Professor Simcox; and A weekly update on the time spent working for each client, a short summary of the work done during the week, what was learned during the week, and what the plan is for the next week.

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THE POINT OF THIS MANUAL

A Standard Operating Procedure (SOP) is a written document with instructions on all steps and activities or procedures for tasks. The purpose of these SOPs is to create a set of steps so the expected result is uniform across the clinic. This SOP also outlines universal policies that should be followed while working at the clinic.

Because of the transient nature of the clinic rotation (new students every 3-4 months), it is important that the information being recorded is easy to understand from the original recorder's thoughts to those of the new reader. Standard policies and procedures decrease the time it takes for a new student to understand the information across multiple clients.

We want to make sure all students have similar instructions on how to handle the policies and procedures necessary for success in the clinic. Reading this manual will be extremely helpful for working in the clinic and will create an easier transition into working in the clinic. This is also good training on "how to be a lawyer."

First Week Assignments

Prior to beginning work in the clinic, each student is required to:

- (1) read an excerpt from the [Florida Rules of Professional Conduct](#) with consideration to the Virginia rule differences (Appendix 1),
- (2) sign the Confidentiality Agreement stating the student has read the Rules (Appendix 2),
- (3) read this manual and sign the Policy and Procedures Agreement form (Appendix 3),
- (4) sign the personal computer confidentiality agreement if you wish to use your laptop (Appendix 4),
- (4) complete the Self-Assessment Worksheet (Appendix 5), and
- (5) complete the Individual Semester Schedule Worksheet (Appendix 6) that will assist while scheduling outreaches, movie night, and any other out of class activity associated with the Clinic.

These documents are due in Prof. Simcox's mailbox on the Friday of the first week of classes by 5pm.

Additionally, each student will complete an Action Memo for each of his or her active cases by the start of Week 3. Please see "Inheriting an Existing Client/Case" for more detailed information on the Action Memo.

The Veterans Advocacy Clinic Manual: About the Clinic

ABOUT THE CLINIC: ORGANIZATIONAL BACKGROUND

What We Do

The Veterans Advocacy Clinic offers students the opportunity to assist veterans with their claims for disability compensation with the Department of Veterans Affairs, as well as matters before Physical Evaluation Boards and the Boards for Correction of Military Records. Under attorney supervision, clinic students have the opportunity to interview clients, analyze medical records, communicate with health care providers, and craft strategies to help clients receive disability compensation. These services can have life-changing effects on the veterans we serve. Stetson University College of Law is partnering with a number of medical providers to help veterans address all of the health and disability concerns that may arise from their service to our nation.

As a clinical program consisting of law students supervised by an experienced former-military attorney, the Veterans Advocacy Clinic is in a unique position to provide Veterans with disability claims services while providing the next generation of attorneys with hands-on experience in working with real clients.

Mission

The Veterans Advocacy Clinic is dedicated to helping our wounded military heroes navigate the legal system to obtain the benefits they earned; training tomorrow's attorneys to advocate beyond the legal issues by collaborating with other professionals to meet the full spectrum of a veteran's needs.

Vision

The vision of this clinical experience is to prepare you to be a competent attorney and to give those who have served our nation at home or abroad the best chance they have to quickly get the appropriate benefits for their disabilities.

Core Values

- | | | |
|------------------|---|---|
| Heroism | { | • We respect the heroism of our wounded warriors. |
| Professionalism | { | • We hold ourselves to the highest standards of professionalism when dealing with the client and our peers. |
| Selfless service | { | • We, like the veterans we serve, hope to help our communities with our special skills. This is the task of the counselor-at-law. |

The Veterans Advocacy Clinic Manual: Clinic Policies

CLINIC POLICIES

The following policies outline general but important concepts that the student should work to follow:

MODEL RULES

All VAC students and employees working in a legal capacity must adhere to the [Florida Rules of Professional Conduct](#), with consideration to the Virginia rules, and act in accordance with its rules. We do not use the ABA Model Rules in this clinic. The ABA Model Rules are not law in any jurisdiction.

CONFIDENTIALITY

All VAC students and employees working in any capacity must keep all client and proprietary information confidential as required by the Florida (and in some cases Virginia) Rules of Professional Conduct, notwithstanding practicing in the normal course of business or special circumstances.

DUE DILIGENCE

Any client work should be done with the proper due diligence, especially for external documents. Always ensure you are using the proper standards for your brief and the proper filing protocol if you are submitting it to a court.

GENERAL COMMUNICATION

Be reasonable in your communications. Do not give more information out about your clients than is necessary to get an informed response. Make sure you are permitted to give this information out. Be certain to maintain confidentiality. Do not give clients unreasonable expectations.

GENERAL TECHNOLOGY STANDARD

All students and employees should use the Clinic technology when possible. Do not use printing or scanning anywhere else in the law school unless it is an emergency situation and you have spoken to Professor Simcox. **Most importantly, please refrain from using the printer for personal reasons.**

OFFICE ETIQUETTE

All students and employees should act reasonably while in the office and stay within any standards set by the Stetson University College of Law. Any time missed (lateness or absence) should be reasonably divulged prior to the missed day or lateness if more than an hour.

Please keep private conversations to a minimum in the workroom. Other students cannot concentrate on legal research and writing with chatter in our workspace. If you would like to carry on a private conversation, please do so in the breakroom or outside.

OFFICE ATTIRE

You may dress like you do for class except on days you have a client meeting. For client meetings, we expect you to wear professional attire because the clients expect professional attire.

NO PETS ALLOWED

We love pets, but we cannot allow them out of respect to those with pet allergies.

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GENERAL HELP

TIP 1: ACCESS TO THE VLI BUILDING

The clinic office is located at the corner of 13th Ave South and 62nd Ave South on the northwest part of campus. Students must work in the clinic during office hours (8:30am-5:00pm). No work is permitted in the clinic outside these hours due to security concerns. The front door to the VLI is locked at all times. Ring the doorbell to gain entry to the building. If you need to enter during the approved hours and no one is in the building, you may go to the Campus Safety Office (at 1219 61st Ave South). Campus Safety can let you into the building. Please see the Security Procedures document for more information.

TIP 2: WORKSTATIONS

You may sit in any of the workstations in the student workroom. Please do not sit at the scanner workstation unless you are using the scanner or no other workstations are available.

TIP 3: HOUSEKEEPING

We have a beautiful facility, and we want it to stay that way.

Please keep the workroom clean and organized. Be mindful that others will be using the room after you, so please do not leave candy wrappers, water bottles, etc. on the desk after you leave.

The kitchen area is clean-as-you-go. You are welcome to put your lunch and snacks in the refrigerator and use the microwave. However, please clean up your own messes and your own dishes. The cleaning staff does NOT clean the kitchen.

TIP 4: WATER COOLER & COFFEE MAKER

Please have as much water from the cooler as you wish but within reason. Specifically, do not use it to refill personal water bottles for use outside the VAC. You can use the water fountain for that. Kindly inform Shirley when water supplies run low.

If you would like to use the coffee machines, please bring your own K-cups or ground coffee. The K-cups supplied by the Clinic for client use. Please clear the machine of your used ground coffee when you are done.

TIP 5: ACCESS TO CLIENT FILES

Client physical files are stored in the file storage room and arranged in alphabetical order. Please be careful to return file folders in the correct order.

Most but not all physical files have a digital copy. Digital files are housed on a secured server we call the "V drive." If you cannot find a digital copy of a file, check the physical file because the file may not have been scanned. Please ask the clinic staff if you cannot access the shared drive.

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TIP 6: CONFIDENTIALITY

Always remember to keep client information confidential at all times. Only Clinic students and authorized individuals are permitted to be in the student workroom due to the confidential nature of the information in that room. If you need to speak with a non-Clinic student or individual, please do so outside the workroom. Sometimes Facilities or Housekeeping needs to do work in the VLI. We want to ensure our files maintain strict confidentiality at all times and are not accessible to anyone. When talking about cases in the clinic office, please refrain from using clients' full names. Use client initials instead. Also be mindful of divulging confidential information if a guest or another client is present.

Be sure to secure all client information when you leave your workstation for the day:

- Physical files should not be left lying around on the workstations, copiers, or printers. **Securing your client files means putting them in the file storage room.** Mailboxes are provided for you to temporarily store your materials.
- Electronic files should be saved to the shared drive (explained below) and closed.

If you are the last person working in the building, please lock and close the file room door so our files are maintained under lock and key.

TIP 7: PHONE AND FAX PROCEDURES

Phone

To dial, enter the phone number for local calls (area code: 727). For long distance numbers, enter "1" followed with the area code and phone number ("1"+(###)+###-####).

You should answer when the Clinic phone (the line ending in 7324) rings. When you answer the phone, please say, "Stetson University College of Law's Veterans Advocacy Clinic, this is [insert your name] speaking, how may I help you?"

If a client asks for another student in the room, ask the client to hold and see if the student is ready to take the call. If the student is not there, send the student (cc-ing Professor Simcox) an e-mail with the contact information and message of the caller. **If the caller is a client, do not send confidential information (e.g., client's full name) to the other student's email.** You can find students' e-mail addresses in MS Outlook. Missed client phone calls should be returned within 48 hours.

You should keep a log of all your client phone calls on Prevail. Calls where important information is relayed should have a corresponding memo created, recording the important parts of the conversation for the record. For example, if a client calls with names of soldiers who could make buddy statements, a memo should be made with all the relevant information. This way, the next student understands why you were looking for one of the soldiers.

If a non-client calls and asks for information relating to the clinic, please put the veteran on hold and let Shirley know. If Shirley is not available, take the caller's information to include name (please confirm spelling), contact number, reason for calling, and best time to return the call. Then put this in an email to Shirley Booker (swells@law.stetson.edu) so she can determine the nature of the inquiry.

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Fax

To dial out, press 5 + Number for local calls and 5 + 1 + Number for long distance. Also ensure documents are face-up before dialing and sending. A confirmation sheet will print after successful transmission.

Make sure you use the fax coversheet template on ALL faxes. Also make sure you attach the fax confirmation (paper that prints out after faxing) to the physical file's copy of the information sent (have the fax confirmation precede the copy of the information sent). In some cases, you will want to fax AND mail with certification (like medical records from hospitals). Make sure a copy goes on the V Drive and the paper file. There are special fax coversheets for faxes going to the VA. See below for more information.

When faxing, have Mavic or Shirley (or Professor Simcox, if Mavic or Shirley are unavailable) initial the fax confirmation once it is received before scanning it to the shared drive and attaching it to the physical file folder.

If you are faxing a large file (over 50 pages), ask Mavic or Shirley for assistance on e-faxing it.

TIP 8: SCANNING & PRINTING PROCEDURES

Scanning

Documents received for a client's case should be immediately scanned and saved in the appropriate folders on the shared drive. Please use the Canon scanner at the desktop computer in the student workroom. It allows you to scan and save a file directly to the shared drive (see instructions below). If it is unavailable, you can use the Kyocera multifunction printer to scan and email it to the shared vetclinic email address.

When scanning a document that was faxed or mailed, scan the fax confirmation(s) and certified mail slip (the white and green mail slip) followed by the documents that were submitted. In other words, when scanning, the PDF file should have the fax confirmations and certified mail slip precede the actual documents that were faxed or mailed.

Printing

Send all print jobs to the main Kyocera printer. Do NOT print to any other printer on campus.

TIP 9: EMERGENCY PROCEDURES (SUICIDE THREATS, UNWELCOME VISITORS, ETC.)

If, over the phone, a client threatens suicide, becomes hostile, or emergency situation, retrieve Professor Simcox from her office immediately OR call her at **727-463-7332 (her cell)**. This number should be used for emergencies only unless otherwise specified.

Visitors to the Clinic should ring the doorbell. Shirley's desk has a 1Vision video screen that shows a picture of the person who rang. You can touch the "Answer" key on the screen and ask who the visitor is. Then inform them you are not permitted to open the door to walk-in visitors for security purposes. Then take the visitor's contact information and email this information to Shirley.

Sometimes we get unexpected visitors to the office. Depending on who they are, you will have to use your best judgment dealing with them if Shirley is not available. If a visitor makes you feel you may be in

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danger, you can hit the panic button at Shirley's desk. This button immediately calls the Campus Safety Office. If you feel seriously threatened, push the button, call 911 immediately, secure yourself, and call Professor Simcox.

You should only arrange to meet clients for document drop-offs or subsequent interviews if you know a Professor Simcox or a TA or another staff member will be available and in the building.

Of course, for a medical emergency please hit the panic button and call 911.

TIP 10: RESEARCH RESOURCES

The veterans law "bible" is the Veterans Benefits Manual. Keep in mind it is a secondary resource. **In your memos, you should refer to the authorities it cites, not the Manual itself.**

- The current edition (2018-2019) is available in hard copy in the VLI, campus library, and bookstore.
- It is also available electronically on LexisNexis.

CFR Schedule of Ratings: <http://www.benefits.va.gov/warms/bookc.asp>.

- Click on the Schedule of Ratings for the section relevant to your claim.

VA Disability compensation rates: http://www.benefits.va.gov/COMPENSATION/resources_comp01.asp.
Combined Disability Calculator on the V Drive: <V:\Combined Disability Calculator.xls>.

- Don't save over this spreadsheet. If you want to save your work, save it under a different name in your client's file.

The helpful staff at the Stetson law library is available to assist you in:

- Researching Stetson's printed and online resources
- Requesting loans for books from other libraries and universities
- Researching databases in medical and other non-legal fields

TIP 11: VETERANS LAW INTERNET SHORTCUTS

[Military Disability Made Easy](http://www.militarydisabilitymadeeasy.com/): <http://www.militarydisabilitymadeeasy.com/>

- This is the best website for finding easy-to-read descriptions of veterans' disabilities, and many entries provide links or references for further information.

[Veterans Affairs Schedule for Rating Disabilities \(VASRD\)](http://www.benefits.va.gov/warms/bookc.asp): <http://www.benefits.va.gov/warms/bookc.asp>

- This section of the C.F.R. lists detailed requirements for assigning military disability ratings. Although it's a regulation, it's "the law" with regard to defining veterans disabilities.

[M21-1 Adjudication Manual](#) (This link changes often, so a Google search is your best best.)

- This "manual" contains the voluminous guidelines and criteria by which rating officials process and adjudicate veterans claims. It often provides the VA's interpretation of VASRD criteria.

[VA General Counsel](http://www.va.gov/OGC/index.asp): <http://www.va.gov/OGC/index.asp>

- The general counsel website holds opinion papers that may not be posted in Lexis or WestLaw.

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[VA Forms](http://www.va.gov/vaforms/default.asp): <http://www.va.gov/vaforms/default.asp>

- Up-to-date VA forms are posted here.

[Disability Benefit Questionnaire \(DBQ\) Forms](http://www.benefits.va.gov/compensation/dbq_listbydbqformname.asp):

http://www.benefits.va.gov/compensation/dbq_listbydbqformname.asp

- Up-to-date DBQ forms are posted here.

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CLINIC PROCEDURES/CHECKLISTS

Checklists: Opening, Continuing, and Wrapping Up Cases

Opening a New Case: The Initial Interview

STEP 1 – LEARN BASIC INFORMATION

Talk to Prof. Simcox about the new client and get his/her basic information from the application. Then research the medical conditions based on the application.

- Gain familiarity on the medical conditions on Military Disability Made Easy
- Look up the VA schedule for rating disabilities
- Figure out what the veteran must prove to be compensated for the claim
- Prepare questions based on this preliminary research

STEP 2 – SCHEDULE INITIAL INTERVIEW

Schedule the initial intake interview with yourself, your partner, the client, Prof. Simcox, and any other parties deemed necessary.

- Find a two-hour block for the meeting:
 - Call the client for his or her general availability.
 - Coordinate with Professor Simcox or Mavic to find a partner.
 - Deconflict the attorney and partner schedules to find a specific two-hour block.
 - Call the client to set the appointment time, date, and place.
- Send an Outlook meeting invitation to Prof. Simcox, the attorney and your partner.

Special Procedures:

- If the client is out of state or unable to meet in person, set up a Skype meeting. Shirley or Professor Simcox can help.
- If the client does not have transportation, ask Professor Simcox for guidance. You can either find a taxi to bring the veteran to the law school or meet the veteran at a public location (library, cafe, etc.) near him or her.

STEP 3 – PREPARE INTAKE DOCUMENTS

Bring the following intake documents to the interview. These documents are in the “Initial Interview Documents” folder on the shared drive. Fill out the documents as much as possible.

1. **Engagement Letter** (Fill out as much as possible, with the scope filled out during interview).
2. **VA Form 21-22a** “Appointment of Individual as Claims Representative” (fillable).
3. **VA Form 10-5345** “Request for and Authorization to Release Medical Records or Health Information” (fillable). Used to request medical records from the VA or VA medical facilities.
4. **Standard Form 180** “Request Pertaining to Military Records” (fillable).
5. **FOIA request letter** for client’s signature. If the client has EVER applied for anything with the VA, we use this to get a copy of the entire claims file or “C-File.”
6. **VBA-21-0845-ARE** “Third Party Release”
7. **Authorization to Release Information.**
8. **List of Medical Treatment Providers.** The client completes it at home and returns it to us.
9. **Medical Information Release.** Give 5 copies to the client to complete at home and return to us.

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STEP 4 – WEEK-OF PREPARATIONS

Ensure the professional attire you plan to wear is clean and presentable. Tip: If you haven't worn it in a few months, make sure it fits. Call the client as a reminder one business day before the appointment. Also explain directions and parking.

STEP 5 – CONDUCT THE INTERVIEW

Complete the interview with professional dress and demeanor. Prepare yourself (with notes if you wish) to make sure you can confidently:

- Explain confidentiality at the beginning of the interview.
- Explain the VA process.
- Confirm with your client where he or she is in the VA process.
- Explain the intake paperwork, esp. the engagement letter, which you will review paragraph by paragraph with the veteran.

Keep track of all the documentation that comes up in the interview

- Take notes or bring another student to help take notes.
- If you plan on using a computer, ask your client for permission. Have pen and paper in case the client prefers you not use a computer.
- If the client brings additional information, make copies and return the originals. We do not keep originals except under special conditions.
- Give the client copies of any agreements or anything they ask for related to their case. Make sure you scan any document they sign. Then put it on the V Drive and in their paper file.

Opening a New Case: Creating the File

STEP 1 – INITIAL DOCUMENTS

Create the client files and begin requesting information. **NOTE:** MAKE PHOTOCOPIES FOR THE FILE OF ALL DOCUMENTS SENT OUT (including attachments!), put copies in the files and then scan the documents onto the V-drive, and give clients a copy of what you send out.

- Create a paper file and V Drive file for the client. Use the guidelines under PROCEDURES: PHYSICAL FILES in this guide.
- If the client has an existing claim, prepare for Prof. Simcox's signature a VA Form 21-22a cover letter that informs the VA we represent the client (cover letter is on the V Drive under the "Templates" folder). Prepare the letter and a complete copy of the VA 21-22a **within one week** of your initial interview. This document should be faxed to the Evidence Intake Center.
- If the client does not have an existing claim, we will send in the VA Form 21-22a later when we submit the claim.
- The FOIA request for the client's claims file ("C-File") should be sent **within one week** of your initial interview, if you and your supervising attorney agree it should be requested. Enclose with this request a copy of the signed VA Form 21-22a. Please note that this letter is faxed to the Evidence Intake Center.
- Multiple Standard Form 180 records requests should be sent out to the appropriate organizations **within one week** of your initial interview. The instructions for mailing the SF180 are on the last page of the form. You may have to send the form to one or several places, which are listed on the form.

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Include a cover letter for Prof Simcox’s signature explaining the reason for the request and our representation of the client. (Cover letter is under the “Templates” folder on the V Drive).

- A VA Form 10-5345 may have to be sent to VA medical center if the Veteran was associated with more than one regional office.
- Note: Mail should be sent certified if it is not being mailed to the client or for a buddy statement.

STEP 2 – INITIAL MEMO

Prepare a memo to the supervising attorney within **one week** of the initial interview. This initial memo takes the place of the ordinary Action Memo that must be completed for every active case assigned at the beginning of the semester, see below. This initial memo will be placed in the client file and will act as an opening memo for the file. The memo should include the following subsections:

- **BACKGROUND:** provide a short description of the client’s background
- **CLIENT GOALS:** describe what the client is seeking (discharge upgrade, increased rating, etc.)
- **PROCEDURAL HISTORY:** describe each claim and where they are in the process
- **CLINIC HISTORY:** describe what was accomplished by the last student assigned to the case
- **CLAIMS CHART:** describe each claim, its status, and our next steps to accomplish—to include what evidence is necessary to prove this claim
- **Disability:** describe the disability as claimed.
 - Do not simplify the name, as the long description may have significance. For example, “Anxiety disorder, not otherwise specified (claimed as PTSD),” describes a diagnosis of anxiety that rules out all specific types of anxiety.
 - Use a different row for each claimed disability.
 - For complex cases with several disabilities claimed at several different times, you should group the claims or disabilities how they make the most sense to you. You can use shading if it works for you and the next semester’s student.
- **Date of Action:** provide the date of the latest action in the next column.
- **Action:** list the last action taken, whether it was by the VA or the VAC.
- **What we are doing next:** Briefly describe the next step to be taken by the VAC. If the VAC is waiting for VA action, please specify that action and anything that can be done in the meantime. If no action is necessary, please say so.

Disability	Date of Action	Action	What we are doing next
Diabetes Mellitus	03/02/2016	Opened new claim, Filed 526EZ	No further action by VAC at this time. C & P exam to be scheduled.
Sleep Apnea	05/22/2017	Filed NOD	Awaiting VA to set DRO hearing date. Collect buddy statements from roommates who noticed symptoms.

- **POTENTIAL HURDLES:** list possible problems with these claims (eligibility, ailing client, etc.)
- **PLAN OF ACTION:** list the next steps do you propose we take on this client’s case. Discuss deadlines and potential issues. Some questions to ask yourself:
 - Do we need to request any records not requested in the initial interview stage?
 - Do we have all the necessary signed documents?
 - Do these claims make sense? Is there another claim you think is relevant?

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- Do I need to write a brief?
- Do I need to talk to a medical doctor or help the veteran get a medical appointment?
- OTHER: list anything else we should know about

Complete and submit this document within **ONE WEEK** of initial interview. Do not delay it while you wait for documents to arrive from the VA or records centers. If you need the documents to answer all the questions, then note the question/issue, note the documents you need, and submit the memo. Also ensure you print or copy the interview notes (as well as other paperwork you collected) and place them in the electronic and paper file.

STEP 3 – PLAN OF ACTION

Meet with Professor Simcox to discuss your plan of action.

STEP 4 – WORK ON THE CLAIM

Look below at the general “to do” section after the “Inheriting an existing client/case...” section for actions to take after opening the claim.

Inheriting an Existing Client/Case

STEP 1 – INITIAL REVIEW

Read the client’s opening memo, any interview notes, and any transition memo.

STEP 2 – CHECK FOR DEADLINES

Look at the V Drive files for any deadlines

STEP 3 – PLAN OF ACTION

Make a note of all “to do’s” and create a plan of action based on the transition reports, your own thoughts, and any deadlines. Some questions to ask yourself:

- What are the important deadlines I need to meet with the VA?
- Do we need to request any records not requested in the initial interview stage?
- Do we have all of the necessary signed documents?
- Do these claims make sense? Is there another claim you think is relevant?
- Do I need to write a brief?
- Do I need to talk to a medical doctor? Should I help the veteran get a medical appointment?
- What evidence would prove this claim? How can I get that evidence?

STEP 4 – ACTION MEMO

Write and submit an Action Memo to Prof. Simcox by the start of Week 3.

STEP 5 – PLAN OF ACTION

Talk to Prof. Simcox about your plan of action and your Action Memo.

STEP 6 – WORK ON THE CLAIM

Look below at the general “to do” section for actions to take after opening the claim

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“To Do” For ALL Clients (New and Existing)

Correspondence with the Client

The biggest complaint about attorneys is that attorneys fail to communicate. To establish good habits in client communication, each student in the clinic is required to write and mail letters to the client at the beginning of the semester and the first week of every month. These letters should tell the client what has been done on his/her case in the past few weeks and what will be done in the upcoming weeks. Even if there is NOTHING to report, we mail the letter and tell the client what we are waiting on before we can proceed.

The first draft of these letters is due to Professor Simcox’s inbox by 9:00 AM on the first Monday of every month, so they are due to the TA one week before that. If there are no changes, the signed copy will be in your mailbox. You should scan it, put a copy in your paper file, and mail it. Proper mailing procedures are discussed separately.

- Put your signature block and your attorney’s signature block on the client letters. We do not use certified/return receipt for mailing to the client except in unique situations.
- You should complete a monthly letter for the second month of the semester by the first Monday of that month, even if it is only one or two weeks after the Introduction Letter. Please do not wait until the middle of the month so the letters are evenly spaced. These monthly letters are due to the TA one week before the first Monday. The introduction letter is to introduce yourself to the client. The monthly letter is to update the client on their case status.

In addition, please call the client and follow up if he or she calls you on the phone. You can e-mail them also, but please make sure the copies of e-mails get on the V Drive and in the paper file.

Make sure the client gets a copy of any document you mail to an external person (VA, doctor, etc.) and a copy of anything you received that they wouldn’t normally get a copy of. If it contains confidential information, please mail it certified.

Most importantly, the client may make important decisions in their cases and communicate them to you by phone. There will be times where they may decide to drop a claim, add a claim, etc. You should always make a memo of these decisions, and then mail them a letter confirming what you spoke about.

Follow Up Interviews (Clients, Witnesses, etc.) & Important Conversations

If you feel the need for a follow up interview (need more information from them, etc.) with a client, witness, buddy, etc., it can be done in person or over the phone.

- Be ready to discuss the case and ask informed questions about the veteran’s ailments.
- Have the client’s permission to talk to the witness or buddy if necessary.
- Create a short Memo for Record (MFR) about what your discussions and put it on the V Drive and physical file.

Plan of Action

Work from your plan of action. Complete goals, and reassess the situation periodically. If working on a brief, or have to send a doctor letter, or you need to do anything written, search the V Drive for an example, chances are you’ll find one that can help you complete your task.

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Meet With Prof. Simcox Weekly for Case Update And Discussion

Make sure you keep Professor Simcox informed on your case. You and your assigned partner (if you have one) will meet with her weekly to update her on your case status. You should come prepared with a general overview of the work you've been doing and the questions you have. This is a good time to have her review and sign documents relating to your veteran's claim.

Transition Memos

Transition memos are some of the most important documents you create. These cases take years to resolve (don't worry we will email you when you are a big-time lawyer and let you know the results!) Every person after you who helps this veteran will rely on the transition memo to understand what you did this semester, what the plan is for this case, and what should be done in the future.

The transition memo is based on the initial memo and should include the following subsections:

- **BACKGROUND:** provide a short description of the client's background
- **PROCEDURAL HISTORY:** describe each claim and where they are in the process
- **CLAIMS CHART:** describe each claim, its status, and our next steps to accomplish—to include what evidence is necessary
- **Disability:** describe the disability as claimed.
 - Do not simplify the name, as the long description may have significance. For example, "Anxiety disorder, not otherwise specified (claimed as PTSD)," describes a diagnosis anxiety that rules out all specific types of anxiety.
 - Use a different row for each claimed disability.
 - For complex cases with several disabilities claimed at several different times, you should group the claims or disabilities how they make the most sense to you. You can use shading if it works for you and the next semester's student.
- **Date of Action:** provide the date of the action in the next column.
- **Action:** list the last action taken, whether it was by the VA or the VAC.
- **What we are doing next:** Briefly describe the next step to be taken by the VAC. If the VAC is waiting for VA action, please specify that action and anything that can be done in the meantime. If no action is necessary, please say so.

Disability	Date of Action	Action	What we are doing next
Diabetes Mellitus	03/02/2016	Opened new claim, Filed 526EZ	No further action by VAC at this time. C & P exam to be scheduled.
Sleep Apnea	05/22/2015	Filed NOD	Awaiting VA to set DRO hearing date. Collect buddy statements from roommates who noticed symptoms.

- **WORK PRODUCT:** list the work product you did this semester
- **TO-DO LIST:** list the next steps do you propose we take on this client's case. Discuss deadlines and potential issues. Some questions to ask yourself:
 - Do we need to request any records not requested in the initial interview stage?
 - Do we have all the necessary signed documents?
 - Do these claims make sense? Is there another claim you think is relevant?

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- Do we need to write a brief?
- Do we need to talk to a medical doctor or help the veteran get a medical appointment?
- **DOCUMENT STATUS:** Confirm we completed the intake documents and requested and/or received all required paperwork. If we are still waiting on documents, say that here and when the document request was sent. If the VAC received the C-File, say how much of it has been organized and where to find it.
- **OVERALL GOAL:** list the client's goal intended goal and any new goals that you came up with.
- **POTENTIAL HURDLES:** list possible problems with these claims (eligibility, ailing client, etc.)
- **CONTACT INFO:** provide the client's phone number, email address, etc. so the next student can establish communication. Also provide the best way to contact you for the near future in case the next student has follow-up questions.

This should be placed in the client's paper folder and on the V Drive on the **LAST DAY OF CLASSES** for the semester. Not the last day of Clinic classes, but the last day of ALL classes.

File Maintenance (VERY IMPORTANT!)

- **Paper Files:** Make sure you put copies of any messages sent and received (and any internal work product) in the paper file. This includes e-mails, which should count as a memo to the file. Ensure your client's contact information and other items in the thin red folder are updated.
 - **Correspondence tab:** The folders have two VAC and VA correspondence tabs because most clients have a lot of correspondence with the VA. Organize correspondence in chronological order so future students can make an accurate timeline of the client's claims. **Please fill the left side to the very top before moving to the right side.**
- **V Drive:** Make sure all the documents you created are off your office computer and on the V Drive. Delete the files off the computer unless you plan on working with that case again. Files should not be transferred or saved to your personal laptop
- **Old E-mails:** Delete e-mails having to do with the client unless you are still working with the client. Make sure copies are in the paper file and the V Drive.

Final Letters to Client

Send a final letter to the client explaining that your time at the clinic is over and a new student will take over in the next school period.

Closing a Client's File

A client's case will resolve in one of three ways:

1. The client no longer desires the services of the VAC;
2. The client's matters have been successfully resolved by the VAC; or
3. The client's matters have been brought to an end because there is no legal merit to moving forward or no further legal work to be done on the client's behalf.

At the resolution of the case, the client will receive a detailed letter explaining:

1. What the resolution of the case is;
2. The history of the progress of the case while being represented by the VAC;
3. The impact of the VA's decisions in the client's benefits;
4. Any upcoming deadlines if applicable; and
5. Procedures to receive a copy of the client file.

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Procedures: Timekeeping

It is important to immediately start the habit of keeping time. Clinical students must account for their hours with Clinical Education in order to receive VAC course credit, and EJW students must account for their hours with EJW to receive their stipend. This learning process will help you keep time when you are billing hours a law firm. To receive your VAC credit or EJW stipend, you must complete the following number of hours by the last day of classes—not by the last day of exams:

- VAC students: 213 hours (approximately 16.5 hours per week)
- EJW students: 300 hours (approximately 25 hours per week)

GROUND RULES

Performing clinical work at a law school puts you in a uniquely challenging situation. Although you are students earning credit or a stipend at an institute of learning, you are also budding attorneys who represent clients on life-changing matters. Further, working in close quarters among other students presents its own challenges.

Rule of Thumb: Treat your time as you would in a professional setting.

- Time spent at the VLI on personal matters (e.g., outlining for other classes) does not count. Leaving the building or doing personal matters, but claiming that is time spent doing work, is not an honest assessment of the situation.
- Occasional breaks within the VAC under 10 minutes are allowed and may count toward your hours. You are not required to punch out every time you take a five minute break or walk to the break area. However, longer activities such as going to lunch, getting coffee at the coffee shop, and running personal errands do not contribute to a client's case and therefore do not count toward your hours.
- For VAC students, a reasonable amount of time may be spent on VAC classwork, such as assigned readings, BlackBoard posts, and other class administrative matters.
- Client-related matters must be performed inside the clinic unless Professor Simcox approves otherwise. Such matters that are only those that do not involve confidential client information.

RECORDING YOUR HOURS

We have two ways of tracking time in the VAC: a sign-in binder and Prevail software. Use the binder at the front desk to sign in and sign out every time you enter and leave the VAC. We use Prevail software to keep time spent on cases. See **Appendix 9** for information on how to complete time entries.

- Time should be split into increments of 6 minutes (0.1 hours).
- Each time entry should be separate and distinct, with great detail about the work performed. For example, "0.2 hours: research for brief," does not describe that you actually did. See **Appendix 9** for further explanation and examples.
- The goal is to explain what was done, why it mattered, and how it moved the case forward. Timesheets allow supervising attorneys to monitor your work; they also create a record for continuity purposes, allowing next semester's students to know what you did.

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- It is well-known that attorneys underestimate how much time they spend working on legal matters. Don't cheat yourself! Start your timer when you begin working on a task. Restart when you change tasks. This will help you figure out how long you spend working on tasks.
- Create a report under "Reports > Accounting > Time Entries by User with Notes" and send it to Mavic at the start of your first shift of each week.

Procedures: Calendaring Deadlines

Deadlines are near and dear to an attorney's heart. A client's case (and future) lives and dies by meeting deadlines. We will practice meeting deadlines in many ways in this clinic. For example, you are required to meet deadlines when filing your timesheets and when turning in your client letters.

Because deadlines are so important, we need to make sure all deadlines are clearly marked in a client's files. There are very few deadlines to meet in the practice of veteran's law, but they are hard and fast and missing them could be catastrophic for a client. So, we do NOT miss deadlines. Because deadlines are Professor Simcox's obsession, we also don't get close to the line on deadlines. We file things as soon as possible. It is a good habit to get into. There are three ways we keep track of deadlines in VAC.

- 1) The student (you) will immediately enter any deadline into the calendar in Prevail, discussed later. You will also immediately email Professor Simcox to inform her of the document received and the deadline. During your weekly meeting you will review the date in the Prevail program together with Professor Simcox.
- 2) At that same meeting, we will put the date of the deadline into the Assignment Tracker on the Staff Attorney's computer, under the appropriate column, as a second check on the deadline.
- 3) As part of your file maintenance for physical files (see below), you will update the red tab at the beginning of your client file with the newest deadlines. Bring this to your meeting with Professor Simcox so that you both can ensure the deadlines are appropriately notated.

Procedures: Routing Sheets

All students will utilize a routing sheet for every assignment (other than Discussion Boards). The routing sheets require different signatures before an assignment is complete. If the assignment is a **letter** (e.g., a cover letter, client letter, etc., to a client, the VA, the CAVC, or other outside entity), the sheet requires the review and signature of (1) a clinic student, (2) the teaching assistant, (3) Mavic Francisco, and (4) Professor Simcox. This order must be followed strictly. Students will attach their routing sheets by paperclip (not staple) to each draft. If the assignment is a **transition memo, action memo, or brief**, the sheet requires the review and signature of (1) the teaching assistant, (2) Mavic Francisco, and (3) Professor Simcox. For each assignment, only use one routing sheet and attach previously reviewed drafts. A batch of similar documents (e.g., monthly client letters or action memos) only needs one routing sheet.

- Example: Student Schmuckatelli completes draft action memos and submits them to the TA with one routing sheet for initial revisions. TA suggests revisions and asks Student to make them. Student makes the initial corrections, shows TA, and then receives the TA's signature on the routing sheet. Student will then submit the revised assignment, routing sheet, and previous version to Ms. Francisco. Process repeats. With TA's and Ms. Francisco's signature on the routing sheet, Student will submit the final draft of the assignment to Professor Simcox.

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Procedures: Physical Files

One of the first things you should always do is go over the Physical client file in the Clinic workroom. Here are some Processes that will help us standardize the way we work with the files.

Update Your Client's Coversheet and End Tab Insert

- Your client's hard copy coversheet is in the red end tab at the beginning of your client's file.
 - To update your client's cover sheet, it can generally be found on the shared drive in the following path: V:\Client Files\CLIENT NAME\##_NEWCOVERSHEET_DATE.docx
 - If your client does not have a new cover sheet, you should copy and re-name another client's cover sheet, being careful to update the headers and footers.
- Each red end tab has an insert listing the number of folders in your client's file. Update the insert only if the number of folders in your client's file changes. The insert is found on the second page of your client's new coversheet document and should be cut out to replace your client's current insert.

Update Your Client's Folders

Folders should be placed in the following order

- **I. Main File** – Your main client folder, including correspondence and internal work product. SEE BELOW FOR INSTRUCTIONS ON MAIN FILE. The front of the file should have the thin red folder with a snapshot of where the client is in their case, and their updated client information.
- **II. C-File** – Your client's claims file from the VA
- **III. OMPF** – Files from the Office of Military Personnel Files and the National Personnel Records Center, as well as other military records.
- **IV. Medical Records**
 - Medical providers: Correspondence with medical providers goes in its own separate file. Each file page will contain correspondence with ONE doctor. Separate correspondence with a purple sheet of paper. If a doctor sends medical records, put a sheet of paper under the correspondence and note on it that the records are in the medical records white folders. Put the medical records into its own file folder in the medical records white folders.
- **V. Other Information** – Any other documentation

Make sure you put copies of ALL correspondence (and their enclosures) into the file. This includes correspondence we prepare and correspondence we receive. There should be no loose paper within these file folders; all documents should be placed within plain manila folders inside these file folders.

The Main File

Our case files have six two-hole-punch parts to be used as indicated below. **Oldest documents go on bottom**, newest on top. Separate documents with a colored sheet of paper.

- **First part:** Documents signed by the client (client agreement, initial application, VA21-22a, medical releases, working copy of VA Form 21-526, SF 180 etc.).
- **Second part:** correspondence between VAC and the client.
- **Third part:** correspondence between VAC and the Department of Veterans Affairs.
- **Fourth part:** overflow from third part.
 - Please do not move to the fourth part until the third part is full. This keeps us from having to go back and forth between the pages to find the chronological order of the documents.

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- **Fifth part:** correspondence between VAC and outside agencies, such as records centers, doctor offices, etc.
 - Remember, personnel and medical records go into their own files as described above.
- **Sixth part:** our internal work product, such as notes to the file, memoranda, initial letter from supervising attorney to lead student on the case, etc.

Procedures: Secured Drive (V Drive Files)

The V Drive will hold all the electronic copies of all your client documents. Use these versions (not physical files) to highlight information. See the secured server section below for more information on how to connect to the drive.

Naming Files

- All files should be named in the same manner: [YYYYMMDD]_[initials]_[Description]
 - Example: 20140910_JJ_Correspondence To Client
 - The date should be the date on the document.
 - Exception: When you receive a big file, such as a C-File, the date should be the date the document is scanned. In addition, you should extract smaller documents from the C-File and save them according to whatever date is on the document.

Folder Maintenance V Drive files

Each client folder should have the following folders (if it does not, please change it so it does):

1. Main Folder
2. C-File
3. OMPF
4. Medical Records

1. Main Folder

- The main folder should have subfolders to match the 6 physical folder parts:
 - 1.1 Intake Documents
 - 1.2 VAC and Client
 - 1.3 and 1.4 VAC and VA
 - 1.5 VAC and Outside Agencies
 - 1.6 Internal Work Product
- Everything in the paper file should be reflected in the V Drive file and vice versa. Please see above description of the individual sub folders.

2. C-File

- In the past, the VA printed the entire C-File and mailed it either to the client or to the VAC. Then a student scanned the C-File to the V Drive and placed the original in a red well labeled "2. C-File."
- Currently, the VA downloads all its files from VBMS to a DVD and mails the DVD. You should copy the file from the DVD to the client's "2. C-File" folder on the V Drive. We don't want to waste a red well for one DVD, so we place the DVD in Part 3 or 4 of the client's main physical file.

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- Rocky can download the C-File from VBMS once we gain access to the client's file. We usually gain access about a month after submitting our initial paperwork to the VA. Downloading is a tedious process that takes 2-3 hours for smaller C-Files and up to 10 hours for larger files.
3. OMPF
- In the past, the National Archives printed the OMPF and mailed it to the client or to the VAC. Then a student scanned the OMPF to the V Drive and placed the original in a red well labeled "3. OMPF."
 - Currently, the National Archives loads all its files to a DVD and mails the DVD. You should copy the file from the DVD to the client's "3. C-File" folder on the V Drive. We don't want to waste a red well for one DVD, so we place the DVD in Part 5 of the client's main physical file.
 - Documents received should get scanned into the V Drive as well as placed in paper file
4. Medical Records
- Medical records received should be scanned into the V Drive as well as placed in the paper file

Procedures: Mail

Receiving Mail

All mail to the VAC is delivered to the library, and Ms. Shirley Booker checks for it each day. Ms. Booker opens the mail, determines which client's file to associate with the mail, and puts it in the student mailboxes that same day. All students should check their mailboxes at least every other day, determine the nature of the correspondence, and what response (if any) is necessary.

If the mail includes a "Notice of Disagreement" or a "Statement of the Case," Ms. Booker will email Professor Simcox that this document was received before putting it in the student mailbox. Students are required to check their mailboxes each day they are in the office. Students should then follow the procedure for entering deadlines detailed above.

The student should scan any document received in the mail, save it in the appropriate folder in the client's digital file, and place the original in the appropriate physical file (see below for physical file maintenance).

If appropriate, a copy of the document received should be sent to the client with a cover letter. The cover letter should include the student's and Professor Simcox's signature blocks.

Sending Mail

Generally, prepare all correspondence with Professor Simcox's signature block. For VA correspondence, include her VA accreditation number. For letters to the client, please prepare two signature blocks – the supervising attorney and your own.

- Pass all correspondence to your supervising attorney **BEFORE** you send it to any party (client, VA, doctors, etc.). Your supervising attorney must approve all materials and correspondence. Send the client a copy of ALL correspondence we send/receive.

The shared drive has document templates and VAC letterhead templates (these are read-only; do NOT save over them). When opening these documents, you should automatically create a new document so

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you can use it for your client. If a sample document is available in one of the other client folders, use it and make sure to scrub any previous client information from the document.

Envelopes are under the counter across from the main printer. Use the plain envelopes, not the preprinted ones. Preprinted VAC return address labels and frequently used address labels are in the accordion folder on the counter.

Sending Certified/Restricted Mail

Certified mail used to be necessary on almost all documents going to the VA and non-VA outside agencies such as hospitals and records centers. It is now required only on documents going to the BVA and to non-VA outside agencies. **If you are unsure, please ask Rocky or Ms. Booker for guidance.**

Step 1: Gather your materials: letter, envelope, white/green certified mail barcode paper, and green certified mail paper.

Step 2: Put the letter in the envelope. Make sure the envelope has an address label to the recipient.

Step 3: Fill out the certified mail receipt, and return receipt “forms”.

- Green and White Barcode Certified Mail Receipt
 - The top part of the sticker portion is a thin sticker with tracking numbers. Take this off and put it on Section 2 (article number) of the green return receipt card.
 - The large sticker should be ripped from the receipt, and attached to the envelope.
 - On the receipt we keep, write this formula: “Client’s Initials/subject matter/Your initials.”
 - For example, if student Nellie Jones is sending a FOIA request to the VA on Tyler Durden’s case, note in the corner TD/FOIA – C-File/NJ).
 - This will help you to match returned receipts with the appropriate documents in your client file so you can determine what has been received.
- Green Return Receipt
 - Put the VAC Address label on the back.
 - Put the address label in Box 1 (article addressed to)
 - Make sure you put the thin numbered sticker from the green and white form to Box 2.
 - Check CERTIFIED MAIL in Box 3 (Service type).
 - Write at the bottom the same formula: “Client’s Initials/subject matter/Your initials.”
 - Check Box 4 only if we are sending confidential documents to a client who lives with others.
 - REMEMBER TO CHECK YOUR MAILBOX EACH DAY FOR NEW CARDS RETURNED AND STAPLE them to the appropriate document in your client file.

Step 4: Stick the Certified Mail Barcode on the front side of the envelope, folding the other side onto the back side. Stick the Green Return Receipt across the back of the envelope.

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Step 5: Put in “outgoing mail” mailbox on the counter. The library will add the postage.

Step 6 (after mail is sent): When a certified mail return receipt is placed in your mailbox, match it with the appropriate document and stub.

Procedures: E-Mail

- You may NOT use your personal e-mail to communicate with VAC clients. Your client should only email the main VAC email address (vetclinic@law.stetson.edu).
- DO NOT provide your private e-mail address or phone number unless you are willing for the client to reach you with that information.
- **Please ensure you use the official VAC e-mail signature in any clinic correspondence:**

This message is from a student participating in an educational clinic at Stetson University’s College of Law. This student is supervised by an attorney, but nothing in the transmission or the message itself in any way establishes or constitutes an attorney-client relationship, unless you are presently a client of this office. This transmission is intended solely for the named recipient(s) and may contain information which is privileged and/or confidential. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately and promptly delete all copies of the message from your computer system. This email is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, and is legally privileged.
- Save all documents as a PDF before emailing them. The VAC does not email documents in Word format to anyone except clients. VAC only emails Word documents to clients that we created for the client (i.e., you made it from scratch).
- Relevant e-mails to the client should be printed, added to the paper file, and added to the V Drive under correspondence.
- Although you don’t have to get e-mails proofread, it is a good idea to check in with Prof. Simcox if you are unsure.

Procedures: Posting on Social Media & Forums

The VAC has accounts with two veterans forums, YUKU and HADIT, where veterans and sometimes experts discuss issues with VA disability claims. Veterans from obscure units also post here to find long-lost battle buddies. Although these sites are good sources for finding evidence to substantiate claims, the users’ posts are not evidence or authority. You should follow up leads from these sites with your own research.

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We have a Skype account for video conferencing with clients. The VAC also has a Facebook account to keep in touch with clients who use it as their primary means of communicating. If you post on Facebook, do not relay confidential information over it.

Site	Username	Password
Facebook	vetclinic@law.stetson.edu	GoArmy2014
Skype	StetsonVetClinic	GoArmy2014
vets.yuku.com	Stetson Law Veterans Clinic	GoArmy2014
www.hadit.com	Stetson Vet Clinic	GoArmy2014

These accounts route emails to vetclinic@law.stetson.edu.

Procedures: Opening VA Password-Protected Files

Individual files: Last 4 of client's Social Security Number and first 3 letters of the client's first name

Example: 6789sam

DVDs: Client's date of birth, either YYYYMMDD or MMDDYYYY, without slashes or hyphens

Example: 19550224 or 02241955

Procedures: Special Considerations for Correspondence with the VA and Other Agencies

Correspondence with the VA

All correspondence to the VA must be done in two ways. The VA requires all materials to be sent or faxed to one main clearinghouse. Because the CFR also requires some items to be mailed to the VA Regional Offices (Form 9's and NODs), we mail and fax to the VA until notified otherwise.

- 1) **Fax.** Before placing your letter in the envelope, fax the entire contents to the VA's claims intake center. **Please fill out and use the VA's fax coversheet.** The VA's evidence intake center is stored as "1" on our fax machine, or you can type the number (5-1-844-531-7818). When the fax is received, you will get two confirmations:

The first confirmation comes from our own fax machine. It includes a copy of the letter that was faxed.

Send Result Report KYOCERA
MFP
TASKalfa 406ci
Firmware Version 2R6_2000.002.106 2016.03.18 [206_0000_003.1641] [206_1100_003.0073] [206_1000_002.0013] 03/29/2017 14:19
Job No.: 004035 Total Time: 0'01'00" Page: 004
Complete
Document: doc00403520170329141741
USE THIS COVER SHEET TO SEND CLAIM MATERIALS TO THE VA CLAIMS INTAKE CENTER
*** EFFECTIVE JANUARY 2017 - PLEASE DO NOT USE PREVIOUS VERSIONS ***

The second confirmation comes from the VA's autoreply service.

It should be treated like a signature card and included in the client file behind the letter that is sent.

Auto-Reply Facsimile Transmission

To: Fax Sender at 7273819620

From: Auto-Reply Fax System

Your fax was received at the VA Claims Intake Center,

Janesville, WI at 03292017:131729 ET

The total number of pages received: 4

Fax's Unique ID: VA-RF697630

- 2) **Photocopy.** After getting the confirmation, make a photocopy of the letter and attachments to put in the physical file later and set it aside for now.
- 3) **Mail.** Prepare an envelope to the place listed on the correspondence's address block. Mailing labels for commonly used addresses are in the accordion file across from the main printer.
 - Certified mail is not necessary for correspondence to the VA regional offices or claims intake center because the receipt can be confirmed when the VA posts the correspondence to VBMS within a few days.
 - Certified mail is necessary for correspondence to the BVA because those files are often posted on VBMS several weeks later.
- 4) **Save to V Drive.** Scan and save the letter and attachments to the V Drive.
- 5) **Save to physical file.** Staple the certified mail stubs to the fax confirmation. Put them on top of the letter and attachments, add a colored sheet of paper, and use the two-hole punch. Place the entire package into the main file in the third or fourth part of the client's main folder.

Correspondence with the NPRC

Documents sent to the NPRC should utilize the certified/signature card method. The NPRC mailing labels are available with the other frequently used mailing labels. Make sure before you send an SF 180 to the NPRC that you know which office your request should go to. See the Veterans Benefits Manual chapter on requesting military records for more information.

Correspondence with Doctors, Others

You do not need to go through the return receipt/signature card process for doctors, and other non-governmental entities unless you are especially concerned about proving they received this information. Most doctors want requests for medical records faxed to their offices, so call the doctor before sending anything and find out from the office manager or staff how they would like to receive the request.

- Make sure any record request emphasizes we are a non-profit clinic, we don't charge the client ("pro bono" work), we need to get the files for free to help the client with his case, and they need to inform us if they want us to pay before they make copies.

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Procedures: New Client Applications

Applications received in this clinic receive a high priority. We respond to applications with these two principles in mind:

- 1) Veterans have usually waited long enough to get the benefits they have earned. They should not have to wait to find out if they can get help from this Clinic.
- 2) This Clinic should never be yet another closed door to a Veteran. If this Clinic cannot help a Veteran, we will find someplace to refer that Veteran for help.

Inquiries

People often call the VAC with inquiries about representation, etc. When a non-client calls the VAC with these questions and a student answers the phone, the student should obtain the caller's information and email the name, phone number, and reason for calling to Ms. Shirley Booker. If Ms. Booker determines the caller needs to apply to the Clinic she will mail the caller a paper application or direct him/her to our online application.

Application Received

Within five business days of receiving an application, Ms. Booker will send a letter notifying the applicant that the application was received. Within ten business days, Ms. Booker and Prof. Simcox will meet to determine one of three things:

- 1) Is this someone we can help immediately? If so, the VAC will send an acceptance letter and arrange an interview
- 2) Is this someone we are interested in helping but can't due to current resources? If so, the VAC will send the applicant a waitlist letter and refer them to other sources for help in the meantime.
- 3) Is this someone we cannot help or choose not to help for any number of reasons including:
 - Outside of State of Florida
 - Case is better represented by a private attorney
 - Case is not a good student training case

If so, the VAC will send the applicant a denial letter and refer them to a Veterans Service Organization (VSO) or a private attorney, depending on the status of their case.

Applicant Waitlisted

The applicant waitlist will be assessed at the beginning of each new semester to determine if VAC has the resources to help the Veteran. If not, the Veteran will be sent a letter indicating that we still do not have the resources to help the Veteran at this time. The Veteran may spend two semesters on the waitlist. After the second semester, the Veteran is removed from the waitlist and sent a letter indicating they may reapply if they still desire the services of the VAC.

Applicant Accepted

When an applicant is accepted, an interview is arranged with the client as soon as possible (determined by client availability). The potential client is scheduled for a two hour interview with the student (or pairs of students) and Prof. Simcox. Please see "Opening a New Client File" for instructions on this interview and what should happen afterwards.

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CHECKLIST: WRITING A BRIEF

Outlines

Having an outline that gives you an overview of the case will make writing the actual brief much easier. We will ask you to prepare a comprehensive outline for Prof Simcox to review before you begin writing your brief. The point of the outline is for you to show you understand all the issues in the case and have a coherent strategy before writing the brief.

Though there is no standard format for outlines, your outline should include:

- Headings – How you will organize your briefing (I, II, A, B, C, 1, 2, etc.)
- Legal arguments – Don't worry about exact wording...just get your point across for now
- References – What authority you intend to cite (statutes, regulations, case law, VA documents, etc.)
- Evidence you intend to present – Don't worry about wording...just get your point across

Templates of outlines are provided in Prevail with examples. You may also review previous students' outlines for more examples. You will see how some students pretty much write their brief in their outlines, while other students add very few details to their barebones outlines. Do what you feel comfortable doing, but do not spend more than a few hours on the outline itself. If you get stuck, please ask for guidance.

Writing a Brief

The easiest way to organize your brief is to use the IRAC (Issue; Rule; Analysis; Conclusion) method taught in Legal Writing and used generally in the law school. The following chart can also help you jump-start your writing process.

Step 1: Determine the issues you would like to discuss/prove

Step 2: What elements do you need to prove for each issue? Any standards?

Step 3: What evidence do you have to support each element/standard?

Step 4: Write an executive summary, your body, conclusion.

Step 5: Are there any special rules you need to follow? i.e. what are the court rules for filing, etc.?

Templates

The VAC has a folder for templates on the V Drive at V:\Brief Library. Please use this (and not older documents) as a template to create new documents for clients.

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- **IMPORTANT:** The first thing to do is “save as” the document to your client’s file folder. This prevents overwriting the template and accidentally adding client information to the template.

Using Older Documents

Reviewing other briefs on the V Drive may help you begin, especially if you are working on the same type of case that another student already wrote about.

The VAC is a clinical environment that provides practical experience working on clients’ cases. **For your work here, you may borrow from prior work, just as you would do in a law firm.** If you wish to consult older documents to help you begin your brief, keep in mind borrowing from prior work will require more effort than simply copying and pasting. Although you should not be concerned with plagiarism, you need to ensure you produce high-quality work product. Keep in mind:

- Check all cited legal authority and procedures to ensure they are current.
- Double-check and triple-check your brief’s argument, evidence, legal authority, and especially names pertain to YOUR case, not the previous case.
- The previous student’s writing style may be different than yours. Be careful of inconsistencies in punctuation, footnotes, etc.
- Check that the letterhead’s information and formatting is correct.
- The signature on a brief affirms the information presented is accurate and complies with all applicable rules of professionalism. Protect Prof. Simcox’s bar card as you would protect your own

SOFTWARE GUIDELINES

An often-overlooked aspect of practicing law is using software efficiently. You should not rely on someone else to teach you how to use software, especially when starting out. The best time in your career to learn these skills is in law school. The VAC uses much of the same software as law firms, and you should take this opportunity to become more proficient and computer literate. During your time at the VAC, you will extensively use the following software:

- Microsoft Office 2016 (Word, Excel, PowerPoint, OneNote)
- Adobe Acrobat Pro IX
- Prevail case management
- Canon CapturePerfect scanner software

Stetson students have free access to software training via Atomic Learning. The best part about Atomic Learning is that teaches you how to do a specific skill with a just a one-minute video.

1. Log into MyStetson with your username and password.
2. Click on the “Personal” tab.
3. Under Resources, click on Atomic Learning.
4. When the website pops up, search the software you would like to learn about.

Adobe Acrobat Pro IX

Nearly all evidence in the VAC is documentary and in PDF format, so understanding how to use Acrobat is crucial. Everyone knows how to use Acrobat to view PDF files, but not everybody knows all the

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amazing features of Acrobat Pro. During your time in the clinic, you should learn how to use Acrobat Pro to:

Advanced search	Combine or split files
Add bookmarks	Apply text recognition
Add, delete, extract, or reorder pages	Redact and remove confidential information
Add page numbers and other headers/footers	Add boxes for highlighting text

Prevail

Prevail is a practice management system for lawyers. It is used by small to large businesses and firms to manage deadlines, billing, timesheets, task sharing, etc. We will use it to:

- 1) Keep time. (See above and **Appendix 7** for more information.)
- 2) Keep track of client contact information.
- 3) Send emails to clients.
- 4) Track phone calls made to or on behalf of clients.
- 5) Generate documents.
- 6) Organize client documents.
- 7) Set deadlines and reminders.

You should use Prevail anytime you touch a client's file because it keeps track of all the work you did for the client. Prevail's saying rings true: "If it didn't happen in Prevail, then it hasn't happened."

We will provide hands-on training during your first week at the VAC.

Canon CapturePerfect for Scanner

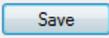
1. Load documents facing up.

2. Double-click the CapturePerfect icon  on the desktop to bring up the main menu.

3. Press the Scan to File button .

4. The program brings up a window for where to save the file.

- Find and select the folder where you want to save the file.
- Name your file. Remember to use the proper file format: [YYYYMMDD]_[initials]_[Description]
- When naming the file, look to the "multipage settings". Make sure to use the "**All pages**" setting. (Otherwise, the file will save each page as a separate document).

5. Press the Save button . The document will scan.

6. If you need to scan more pages, click Continue Scanning. If you're done, click Stop Scanning.



APPENDICES

Appendix 1: EXCERPT FROM FLORIDA RULES OF PROFESSIONAL RESPONSIBILITY

Florida Rule of Professional of Professional Conduct 4-1.1-4-1.4 and 4-1.6

PLEASE COMPARE FLORIDA RULE 4-1.6 to VIRGINIA RULE 1.6 (also provided)

RRTFB – December 14, 2018

CHAPTER 4. RULES OF PROFESSIONAL CONDUCT

PREAMBLE: A LAWYER'S RESPONSIBILITIES

A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice.

As a representative of clients, a lawyer performs various functions. As an adviser, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As an advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As a negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., rules 4- 1.12 and 4-2.4. In addition, there are rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. See rule 4-8.4.

In all professional functions a lawyer should be competent, prompt, and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or by law.

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system, because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

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Many of the lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct and in substantive and procedural law. A lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession's ideals of public service.

A lawyer's responsibilities as a representative of clients, an officer of the legal system, and a public citizen are usually harmonious. Zealous advocacy is not inconsistent with justice. Moreover, unless violations of law or injury to another or another's property is involved, preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and heed their legal obligations, when they know their communications will be private.

In the practice of law, conflicting responsibilities are often encountered. Difficult ethical problems may arise from a conflict between a lawyer's responsibility to a client and the lawyer's own sense of personal honor, including obligations to society and the legal profession. The Rules of Professional Conduct often prescribe terms for resolving these conflicts. Within the framework of these rules, however, many difficult issues of professional discretion can arise. These issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the rules. These principles include the lawyer's obligation to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system.

Lawyers are officers of the court and they are responsible to the judiciary for the propriety of their professional activities. Within that context, the legal profession has been granted powers of self-government. Self-regulation helps maintain the legal profession's independence from undue government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on the executive and legislative branches of government for the right to practice. Supervision by an independent judiciary, and conformity with the rules the judiciary adopts for the profession, assures both independence and responsibility.

Thus, every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest that it serves.

Scope:

The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the rules are imperatives, cast in the terms of "must," "must not," or "may not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of that discretion. Other rules define the nature of relationships between the lawyer and others. The rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role.

The comment accompanying each rule explains and illustrates the meaning and purpose of the rule. The comments are intended only as guides to interpretation, whereas the text of each rule is authoritative. Thus, comments, even when they use the term "should," do not add obligations to the rules but merely provide guidance for practicing in compliance with the rules.

The rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers, and substantive and procedural law in general. Compliance with the rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion, and finally, when necessary, upon enforcement through disciplinary proceedings. The rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The rules simply

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provide a framework for the ethical practice of law. The comments are sometimes used to alert lawyers to their responsibilities under other law.

Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, for example confidentiality under rule 4-1.6, which attach when the lawyer agrees to consider whether a client-lawyer relationship will be established. See rule 4-1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

Failure to comply with an obligation or prohibition imposed by a rule is a basis for invoking the disciplinary process. The rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the rules presuppose that whether discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors, and whether there have been previous violations.

Violation of a rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption that a legal duty has been breached. In addition, violation of a rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating a substantive legal duty. Nevertheless, since the rules do establish standards of conduct by lawyers, a lawyer's violation of a rule may be evidence of a breach of the applicable standard of conduct.

Terminology:

"Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

"Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.

"Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See "informed consent" below. If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time.

"Firm" or "law firm" denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship, or other association authorized to practice law; or lawyers employed in the legal department of a corporation or other organization.

"Fraud" or "fraudulent" denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information.

"Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

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“Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.

“Lawyer” denotes a person who is a member of The Florida Bar or otherwise authorized to practice in the state of Florida.

“Partner” denotes a member of a partnership and a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

“Reasonable” or “reasonably” when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

“Reasonable belief” or “reasonably believes” when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

“Reasonably should know” when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

“Screened” denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these rules or other law.

“Substantial” when used in reference to degree or extent denotes a material matter of clear and weighty importance.

“Tribunal” denotes a court, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity. A legislative body, administrative agency, or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party’s interests in a particular matter.

“Writing” or “written” denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or video recording, and electronic communications. A “signed” writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

Comment

Confirmed in writing

If it is not feasible to obtain or transmit a written confirmation at the time the client gives informed consent, then the lawyer must obtain or transmit it within a reasonable time. If a lawyer has obtained a client’s informed consent, the lawyer may act in reliance on that consent so long as it is confirmed in writing within a reasonable time.

Firm

Whether 2 or more lawyers constitute a firm above can depend on the specific facts. For example, 2 practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the rules. The terms of any formal agreement between associated lawyers are relevant in determining whether they are a firm, as is the fact that they have mutual access to information concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the underlying purpose of the rule that is involved. A group of lawyers could be regarded as a firm for purposes of the rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the rule that information acquired by 1 lawyer is attributed to another.

With respect to the law department of an organization, including the government, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the client. For example, it may not be clear whether the law department of a

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corporation represents a subsidiary or an affiliated corporation, as well as the corporation by which the members of the department are directly employed. A similar question can arise concerning an unincorporated association and its local affiliates.

Similar questions can also arise with respect to lawyers in legal aid and legal services organizations. Depending upon the structure of the organization, the entire organization or different components of it may constitute a firm or firms for purposes of these rules.

Fraud

When used in these rules, the terms “fraud” or “fraudulent” refer to conduct that has a purpose to deceive. This does not include merely negligent misrepresentation or negligent failure to apprise another of relevant information. For purposes of these rules, it is not necessary that anyone has suffered damages or relied on the misrepresentation or failure to inform.

Informed consent

Many of the Rules of Professional Conduct require the lawyer to obtain the informed consent of a client or other person (e.g., a former client or, under certain circumstances, a prospective client) before accepting or continuing representation or pursuing a course of conduct. See, e.g., rules 4-1.2(c), 4-1.6(a), 4-1.7(b), and 4-1.18. The communication necessary to obtain consent will vary according to the rule involved and the circumstances giving rise to the need to obtain informed consent. The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client’s or other person’s options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid. In determining whether the information and explanation provided are reasonably adequate, relevant factors include whether the client or other person is experienced in legal matters generally and in making decisions of the type involved, and whether the client or other person is independently represented by other counsel in giving the consent. Normally, these persons need less information and explanation than others, and generally a client or other person who is independently represented by other counsel in giving the consent should be assumed to have given informed consent.

Obtaining informed consent will usually require an affirmative response by the client or other person. In general, a lawyer may not assume consent from a client’s or other person’s silence. Consent may be inferred, however, from the conduct of a client or other person who has reasonably adequate information about the matter. A number of rules state that a person’s consent be confirmed in writing. See, e.g., rule 4-1.7(b). For a definition of “writing” and “confirmed in writing,” see terminology above. Other rules require that a client’s consent be obtained in a writing signed by the client. See, e.g., rule 4-1.8(a). For a definition of “signed,” see terminology above.

Screened

This definition applies to situations where screening of a personally disqualified lawyer is permitted to remove imputation of a conflict of interest under rules 4-1.11, 4-1.12, or 4-1.18.

The purpose of screening is to assure the affected parties that confidential information known by the personally disqualified lawyer remains protected. The personally disqualified lawyer should acknowledge the obligation not to communicate with any of the other lawyers in the firm with respect to the matter. Similarly, other lawyers in the firm who are working on the matter should be informed that the screening is in place and that they may not communicate with the personally disqualified lawyer with respect to the matter. Additional screening measures that are appropriate for the particular matter will depend on the circumstances. To implement, reinforce, and remind all affected lawyers of the presence of the screening, it may be appropriate for the firm to undertake these procedures as a written undertaking by the screened lawyer to avoid any communication with other firm personnel and any contact with any firm files or other

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information, including information in electronic form, relating to the matter, written notice and instructions to all other firm personnel forbidding any communication with the screened lawyer relating to the matter, denial of access by the screened lawyer to firm files or other information, including information in electronic form, relating to the matter, and periodic reminders of the screen to the screened lawyer and all other firm personnel.

In order to be effective, screening measures must be implemented as soon as practicable after a lawyer or law firm knows or reasonably should know that there is a need for screening.

4-1. CLIENT-LAWYER RELATIONSHIP

RULE 4-1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Comment

Legal knowledge and skill

In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter, and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances. A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can also be provided through the association of a lawyer of established competence in the field in question.

In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest.

A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also rule 4-6.2.

Thoroughness and preparation

Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. The lawyer should consult with the client about the degree of thoroughness and the level of preparation required as well as the estimated costs involved under the circumstances.

Maintaining competence

To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

Amended March 23, 2006, effective May 22, 2006 (SC04-2246), (933 So.2d 417) So.2d 417)

RULE 4-1.2 OBJECTIVES AND SCOPE OF REPRESENTATION

(a) Lawyer to Abide by Client's Decisions. Subject to subdivisions (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by rule 4-1.4, shall reasonably consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) No Endorsement of Client's Views or Activities. A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(c) Limitation of Objectives and Scope of Representation. If not prohibited by law or rule, a lawyer and client may agree to limit the objectives or scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent in writing. If the attorney and client agree to limit the scope of the representation, the lawyer shall advise the client regarding applicability of the rule prohibiting communication with a represented person.

(d) Criminal or Fraudulent Conduct. A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows or reasonably should know is criminal or fraudulent. However, a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

Comment

Allocation of authority between client and lawyer

Subdivision (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. Within those limits, a client also has a right to consult with the lawyer about the means to be used in pursuing those objectives. At the same time, a lawyer is not required to pursue objectives or employ means simply because a client may wish that the lawyer do so. A clear distinction between objectives and means sometimes cannot be drawn, and in many cases the client-lawyer relationship partakes of a joint undertaking. In questions of means, the lawyer should assume responsibility for technical and legal tactical issues but should defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Law defining the lawyer's scope of authority in litigation varies among jurisdictions. The decisions specified in subdivision (a), such as whether to settle a civil matter, must also be made by the client. See rule 4-1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by rule 4-1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. The lawyer should consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See rule 4-1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. See rule 4-1.16(a)(3).

At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to rule 4-1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

In a case in which the client appears to be suffering mental disability, the lawyer's duty to abide by the client's decisions is to be guided by reference to rule 4-1.14.

Independence from client's views or activities

Legal representation should not be denied to people who are unable to afford legal services or whose cause is controversial or the subject of popular disapproval. By the same token representing a client does not constitute approval of the client's views or activities.

Agreements limiting scope of representation

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The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent, or which the client regards as financially impractical.

Although this rule affords the lawyer and client substantial latitude to limit the representation if not prohibited by law or rule, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. In addition, a lawyer and client may agree that the representation will be limited to providing assistance out of court, including providing advice on the operation of the court system and drafting pleadings and responses. If the lawyer assists a pro se litigant by drafting any document to be submitted to a court, the lawyer is not obligated to sign the document. However, the lawyer must indicate "Prepared with the assistance of counsel" on the document to avoid misleading the court which otherwise might be under the impression that the person, who appears to be proceeding pro se, has received no assistance from a lawyer. If not prohibited by law or rule, a lawyer and client may agree that any in-court representation in a family law proceeding be limited as provided for in Family Law Rule of Procedure 12.040. For example, a lawyer and client may agree that the lawyer will represent the client at a hearing regarding child support and not at the final hearing or in any other hearings. For limited in-court representation in family law proceedings, the attorney shall communicate to the client the specific boundaries and limitations of the representation so that the client is able to give informed consent to the representation.

Regardless of the circumstances, a lawyer providing limited representation forms an attorney-client relationship with the litigant, and owes the client all attendant ethical obligations and duties imposed by the Rules Regulating The Florida Bar, including, but not limited to, duties of competence, communication, confidentiality and avoidance of conflicts of interest. Although an agreement for limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See rule 4-1.1.

An agreement concerning the scope of representation must accord with the Rules of Professional Conduct and law. For example, the client may not be asked to agree to representation so limited in scope as to violate rule 4-1.1 or to surrender the right to terminate the lawyer's services or the right to settle litigation that the lawyer might wish to continue.

Criminal, fraudulent, and prohibited transactions

A lawyer is required to give an honest opinion about the actual consequences that appear likely to result from a client's conduct. The fact that a client uses advice in a course of action that is criminal or fraudulent does not, of itself, make a lawyer a party to the course of action. However, a lawyer may not assist a client in conduct that the lawyer knows or reasonably should know to be criminal or fraudulent. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. See rule 4-1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation, or the like. See rule 4-1.1.

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Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

Subdivision (d) applies whether or not the defrauded party is a party to the transaction. For example, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Subdivision (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last sentence of subdivision (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. See rule 4-1.4(a)(5). Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); November 13, 2003, effective January 1, 2004. (SC02-2035) (860 So.2d 394); March 23, 2006, effective May 22, 2006 (SC04-2246), (933 So.2d 417) .

RULE 4-1.3 DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment

A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See rule 4-1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

A lawyer's workload must be controlled so that each matter can be handled competently.

Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

Unless the relationship is terminated as provided in rule 4-1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See rule 4-1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See rule 4-1.2.

Comment amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); March 23, 2006, effective May 22, 2006 (SC04-2246), (933 So.2d 417).

RULE 4-1.4 COMMUNICATION

(a) Informing Client of Status of Representation. A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) Duty to Explain Matters to Client. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment

Reasonable communication between the lawyer and the client is necessary for the client to effectively participate in the representation.

Communicating with client

If these rules require that a particular decision about the representation be made by the client, subdivision (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See rule 4-1.2(a).

Subdivision (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations – depending on both the importance of the action under consideration and the feasibility of consulting with the client – this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, subdivision (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, subdivision (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected.

Lawyers have particular responsibilities in communicating with clients regarding changes in firm composition. See Rule 4-5.8.

Explaining matters

The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.

Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The

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guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in terminology.

Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from mental disability. See rule 4-1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See rule 4-1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding information

In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 4-3.4(c) directs compliance with such rules or orders.

[Revised: 10/01/2015]

RULE 4-1.6 CONFIDENTIALITY OF INFORMATION

(a) Consent Required to Reveal Information. A lawyer must not reveal information relating to representation of a client except as stated in subdivisions (b), (c), and (d), unless the client gives informed consent.

(b) When Lawyer Must Reveal Information. A lawyer must reveal confidential information to the extent the lawyer reasonably believes necessary:

- (1) to prevent a client from committing a crime; or
- (2) to prevent a death or substantial bodily harm to another.

(c) When Lawyer May Reveal Information. A lawyer may reveal confidential information to the extent the lawyer reasonably believes necessary:

- (1) to serve the client's interest unless it is information the client specifically requires not to be disclosed;
- (2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and client;
- (3) to establish a defense to a criminal charge or civil claim against the lawyer based on conduct in which the client was involved;
- (4) to respond to allegations in any proceeding concerning the lawyer's representation of the client;
- (5) to comply with the Rules Regulating The Florida Bar; or
- (6) to detect and resolve conflicts of interest between lawyers in different firms arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client .

(d) Exhaustion of Appellate Remedies. When required by a tribunal to reveal confidential information, a lawyer may first exhaust all appellate remedies.

(e) Inadvertent Disclosure of Information. A lawyer must make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

(f) Limitation on Amount of Disclosure. When disclosure is mandated or permitted, the lawyer must disclose no more information than is required to meet the requirements or accomplish the purposes of this rule.

Comment

The lawyer is part of a judicial system charged with upholding the law. One of the lawyer's functions is to advise clients so that they avoid any violation of the law in the proper exercise of their rights.

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This rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See rule 4-1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, rule 4-1.9(c) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client, and rules 4-1.8(b) and 4-1.9(b) for the lawyer's duties with respect to the use of confidential information to the disadvantage of clients and former clients.

A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See terminology for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based on experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

The principle of confidentiality is given effect in 2 related bodies of law, the attorney-client privilege (which includes the work product doctrine) in the law of evidence and the rule of confidentiality established in professional ethics. The attorney-client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule applies not merely to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose confidential information except as authorized or required by the Rules Regulating The Florida Bar or by law. However, none of the foregoing limits the requirement of disclosure in subdivision (b). This disclosure is required to prevent a lawyer from becoming an unwitting accomplice in the fraudulent acts of a client. See also Scope.

The requirement of maintaining confidentiality of information relating to representation applies to government lawyers who may disagree with the policy goals that their representation is designed to advance.

Authorized disclosure

A lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation, except to the extent that the client's instructions or special circumstances limit that authority. In litigation, for example, a lawyer may disclose information by admitting a fact that cannot properly be disputed or in negotiation by making a disclosure that facilitates a satisfactory conclusion.

Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Disclosure adverse to client

The confidentiality rule is subject to limited exceptions. In becoming privy to information about a client, a lawyer may foresee that the client intends serious harm to another person. However, to the extent a lawyer is required or permitted to disclose a client's purposes, the client will be inhibited from revealing facts that would enable the lawyer to counsel against a wrongful course of action. While the public may be protected if full and open communication by the client is encouraged, several situations must be distinguished.

First, the lawyer may not counsel or assist a client in conduct that is criminal or fraudulent. See rule 4-1.2(d). Similarly, a lawyer has a duty under rule 4-3.3(a)(4) not to use false evidence. This duty is essentially a special instance of the duty prescribed in rule 4-1.2(d) to avoid assisting a client in criminal or fraudulent conduct.

Second, the lawyer may have been innocently involved in past conduct by the client that was criminal or fraudulent. In this situation the lawyer has not violated rule 4-1.2(d), because to "counsel or assist" criminal or fraudulent conduct requires knowing that the conduct is of that character.

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Third, the lawyer may learn that a client intends prospective conduct that is criminal. As stated in subdivision (b)(1), the lawyer must reveal information in order to prevent these consequences. It is admittedly difficult for a lawyer to "know" when the criminal intent will actually be carried out, for the client may have a change of mind.

Subdivision (b)(2) contemplates past acts on the part of a client that may result in present or future consequences that may be avoided by disclosure of otherwise confidential communications. Rule 4-1.6(b)(2) would now require the lawyer to disclose information reasonably necessary to prevent the future death or substantial bodily harm to another, even though the act of the client has been completed.

The lawyer's exercise of discretion requires consideration of such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction, and factors that may extenuate the conduct in question. Where practical the lawyer should seek to persuade the client to take suitable action. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to the purpose.

Withdrawal

If the lawyer's services will be used by the client in materially furthering a course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in rule 4-1.16(a)(1).

After withdrawal the lawyer is required to refrain from making disclosure of the client's confidences, except as otherwise provided in rule 4-1.6. Neither this rule nor rule 4-1.8(b) nor rule 4-1.16(d) prevents the lawyer from giving notice of the fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion, document, affirmation, or the like.

Where the client is an organization, the lawyer may be in doubt whether contemplated conduct will actually be carried out by the organization. Where necessary to guide conduct in connection with the rule, the lawyer may make inquiry within the organization as indicated in rule 4-1.13(b).

Dispute concerning lawyer's conduct

A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these rules. In most situations, disclosing information to secure this advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, subdivision (c)(5) permits this disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct.

Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. The lawyer's right to respond arises when an assertion of complicity has been made. Subdivision (c) does not require the lawyer to await the commencement of an action or proceeding that charges complicity, so that the defense may be established by responding directly to a third party who has made the assertion. The right to defend, of course, applies where a proceeding has been commenced. Where practicable and not prejudicial to the lawyer's ability to establish the defense, the lawyer should advise the client of the third party's assertion and request that the client respond appropriately. In any event, disclosure should be no greater than the lawyer reasonably believes is necessary to vindicate innocence, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it, and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

If the lawyer is charged with wrongdoing in which the client's conduct is implicated, the rule of confidentiality should not prevent the lawyer from defending against the charge. A charge can arise in a civil, criminal, or professional disciplinary proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person; for example, a person claiming to have been defrauded by the lawyer and client acting together. A lawyer

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entitled to a fee is permitted by subdivision (c) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary. As stated above, the lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of disclosure.

Disclosures otherwise required or authorized

The attorney-client privilege is differently defined in various jurisdictions. If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, rule 4-1.6(a) requires the lawyer to invoke the privilege when it is applicable. The lawyer must comply with the final orders of a court or other tribunal of competent jurisdiction requiring the lawyer to give information about the client.

The Rules of Professional Conduct in various circumstances permit or require a lawyer to disclose information relating to the representation. See rules 4-2.3, 4-3.3, and 4-4.1. In addition to these provisions, a lawyer may be obligated or permitted by other provisions of law to give information about a client. Whether another provision of law supersedes rule 4-1.6 is a matter of interpretation beyond the scope of these rules, but a presumption should exist against a supersession.

Detection of Conflicts of Interest

Subdivision (c)(6) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, for example, when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. See comment to rule 4-1.17. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. The disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, subdivision (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these rules.

Any information disclosed under this subdivision may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. This subdivision does not restrict the use of information acquired by means independent of any disclosure under this subdivision. This subdivision also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, for example, when a lawyer in a firm discloses information to another lawyer in the same firm to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

Acting Competently to Preserve Confidentiality

Paragraph (e) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See rules 4-1.1, 4-5.1 and 4-5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (e) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not

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required by this rule or may give informed consent to forgo security measures that would otherwise be required by this rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, for example state and federal laws that govern data privacy or that impose notification requirements on the loss of, or unauthorized access to, electronic information, is beyond the scope of these rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see the comment to rule 4-5.3.

When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule. Whether a lawyer may be required to take additional steps in order to comply with other law, for example state and federal laws that govern data privacy, is beyond the scope of these rules.

Former client

The duty of confidentiality continues after the client-lawyer relationship has terminated. See rule 4-1.9 for the prohibition against using such information to the disadvantage of the former client.

PLEASE COMPARE 1.6 TO VIRGINIA'S RULE 1.6

Virginia Rule 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information protected by the attorney-client privilege under applicable law or other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

(b) To the extent a lawyer reasonably believes necessary, the lawyer may reveal:

- (1) such information to comply with law or a court order;
- (2) such information to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
- (3) such information which clearly establishes that the client has, in the course of the representation, perpetrated upon a third party a fraud related to the subject matter of the representation;
- (4) such information reasonably necessary to protect a client's interests in the event of the representing lawyer's death, disability, incapacity or incompetence;
- (5) such information sufficient to participate in a law office management assistance program approved by the Virginia State Bar or other similar private program;
- (6) information to an outside agency necessary for statistical, bookkeeping, accounting, data processing, printing, or other similar office management purposes, provided the lawyer exercises due care in the selection of the agency, advises the agency that the information must be kept confidential and reasonably believes that the information will be kept confidential;
- (7) such information to prevent reasonably certain death or substantial bodily harm.

(c) A lawyer shall promptly reveal:

- (1) the intention of a client, as stated by the client, to commit a crime reasonably certain to result in death or substantial bodily harm to another or substantial injury to the financial interests or property of another and the information necessary to prevent the crime, but before revealing such information, the attorney shall, where feasible, advise the

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client of the possible legal consequences of the action, urge the client not to commit the crime, and advise the client that the attorney must reveal the client's criminal intention unless thereupon abandoned. However, if the crime involves perjury by the client, the attorney shall take appropriate remedial measures as required by Rule 3.3; or

(2) information concerning the misconduct of another attorney to the appropriate professional authority under Rule 8.3. When the information necessary to report the misconduct is protected under this Rule, the attorney, after consultation, must obtain client consent. Consultation should include full disclosure of all reasonably foreseeable consequences of both disclosure and non-disclosure to the client.

(d) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information protected under this Rule.

Comment

[1] The lawyer is part of a judicial system charged with upholding the law. One of the lawyer's functions is to advise clients so that they avoid any violation of the law in the proper exercise of their rights.

[2] The common law recognizes that the client's confidences must be protected from disclosure. The observance of the ethical obligation of a lawyer to hold inviolate confidential information of the client not only facilitates the full development of facts essential to proper representation of the client but also encourages people to seek early legal assistance.

[2a] Almost without exception, clients come to lawyers in order to determine what their rights are and what is, in the maze of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that clients usually follow the advice given, and the law is upheld.

[2b] A fundamental principle in the client-lawyer relationship is that the lawyer maintain confidentiality of information relating to the representation. The client is thereby encouraged to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter.

[3] The principle of confidentiality is given effect in two related bodies of law, the attorney-client privilege (which includes the work product doctrine) in the law of evidence and the rule of confidentiality established in professional ethics. The attorney-client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule applies not merely to matters communicated in confidence by the client but also to all information protected by the attorney-client privilege under applicable law or other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law.

[3a] The rules governing confidentiality of information apply to a lawyer who represents an organization of which the lawyer is an employee.

[4] The requirement of maintaining confidentiality of information relating to representation applies to government lawyers who may disagree with the policy goals that their representation is designed to advance.

Authorized Disclosure

[5] A lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation, except to the extent that the client's instructions or special circumstances limit that authority. In litigation, for example, a lawyer may disclose information by admitting a fact that cannot properly be disputed, or in negotiation by making a disclosure that facilitates a satisfactory conclusion.

[5a] Lawyers frequently need to consult with colleagues or other attorneys in order to competently represent their clients' interests. An overly strict reading of the duty to protect client information would render it difficult for lawyers to consult with each other, which is an important means of continuing professional education and development. A lawyer should exercise great care in discussing a client's case with another attorney from whom advice is sought. Among other things, the lawyer should consider whether the communication risks a waiver of the attorney-client privilege or other applicable protections. The lawyer should endeavor when possible to discuss a case in strictly hypothetical or abstract terms. In addition, prior to seeking advice from another attorney, the attorney should take reasonable steps to determine

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whether the attorney from whom advice is sought has a conflict. The attorney from whom advice is sought must be careful to protect the confidentiality of the information given by the attorney seeking advice and must not use such information for the advantage of the lawyer or a third party.

[5b] Compliance with Rule 1.6(a) might include fulfilling duties under Rule 1.14, regarding a client with an impairment.

[5c] Compliance with Rule 1.6(b)(5) might require a written confidentiality agreement with the outside agency to which the lawyer discloses information.

[6] Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

[6a] Lawyers involved in insurance defense work that includes submission of detailed information regarding the client's case to an auditing firm must be extremely careful to gain consent from the client after full and adequate disclosure.

Client consent to provision of information to the insurance carrier does not equate with consent to provide the information to an outside auditor. The lawyer must obtain specific consent to disclose the information to that auditor.

Pursuant to the lawyer's duty of loyalty to the client, the lawyer should not recommend that the client provide such consent if the disclosure to the auditor would in some way prejudice the client. Legal Ethics Opinion #1723, approved by the Supreme Court of Virginia, September 29, 1999.

Disclosure Adverse to Client

[6b] The confidentiality rule is subject to limited exceptions. However, to the extent a lawyer is required or permitted to disclose a client's confidences, the client will be inhibited from revealing facts which would enable the lawyer to counsel against a wrongful course of action. The public is better protected if full and open communication by the client is encouraged than if it is inhibited.

[7] Several situations must be distinguished.

[7a] First, the lawyer may not counsel or assist a client in conduct that is criminal or fraudulent. See Rule 1.2(c). Similarly, a lawyer has a duty under Rule 3.3(a)(4) not to use false evidence. This duty is essentially a special instance of the duty prescribed in Rule 1.2(c) to avoid assisting a client in criminal or fraudulent conduct.

[7b] Second, the lawyer may have been innocently involved in past conduct by the client that was criminal or fraudulent. In such a situation the lawyer has not violated Rule 1.2(c), because to "counsel or assist" criminal or fraudulent conduct requires knowing that the conduct is of that character.

[7c] Third, the lawyer may learn that a client intends prospective criminal conduct. As stated in paragraph (c)(1), the lawyer is obligated to reveal such information if the crime is reasonably certain to result in death or substantial bodily harm to another or substantial injury to the financial interests or property of another. Caution is warranted as it is very difficult for a lawyer to "know" when proposed criminal conduct will actually be carried out, for the client may have a change of mind. If the client's intended crime is perjury, the lawyer must look to Rule 3.3(a)(4) rather than paragraph (c)(1).

[8] When considering disclosure under paragraph (b), the lawyer should weigh such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the nature of the client's intended conduct, the lawyer's own involvement in the transaction, and factors that may extenuate the conduct in question. Where practical, the lawyer should seek to persuade the client to take appropriate action. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to the purpose.

[8a] Paragraph (b)(7) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered imminently or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat.

Withdrawal

[9] If the lawyer's services will be used by the client in materially furthering a course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in Rule 1.16(a)(1).

[9a] After withdrawal the lawyer is required to refrain from making disclosure of the client's confidences, except as otherwise provided in Rule 1.6. Neither this Rule nor Rule 1.8(b) nor Rule 1.16(d) prevents the lawyer from giving notice of the fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion, document, affirmation, or the like.

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[9b] Where the client is an organization, the lawyer may be in doubt whether contemplated conduct will actually be carried out by the organization. Where necessary to guide conduct in connection with this Rule, the lawyer may make inquiry within the organization as indicated in Rule 1.13(b).

Dispute Concerning a Lawyer's Conduct

[10] Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (b)(2) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be established by responding directly to a third party who has made such an assertion. The right to defend, of course, applies where a proceeding has been commenced. Where practicable and not prejudicial to the lawyer's ability to establish the defense, the lawyer should advise the client of the third party's assertion and request that the client respond appropriately. In any event, disclosure should be no greater than the lawyer reasonably believes is necessary to vindicate innocence, the disclosure should be made in a manner which limits access to the information to the tribunal or other persons having a need to know it, and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[10a] If the lawyer is charged with wrongdoing in which the client's conduct is implicated, the rule of confidentiality should not prevent the lawyer from defending against the charge. Such a charge can arise in a civil, criminal or professional disciplinary proceeding, and can be based on a wrong allegedly committed by the lawyer against the client, or on a wrong alleged by a third person; for example, a person claiming to have been defrauded by the lawyer and client acting together. A lawyer entitled to a fee is permitted by paragraph (b)(2) to prove the services rendered in an action to collect it. This aspect of the Rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary. As stated above, the lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of disclosure.

Disclosures Otherwise Required or Authorized

[11] If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, paragraph (a) requires the lawyer to invoke the attorney-client privilege when it is applicable. Except as permitted by Rule 3.4(d), the lawyer must comply with the final orders of a court or other tribunal of competent jurisdiction requiring the lawyer to give information about the client.

[12] The Rules of Professional Conduct in various circumstances permit or require a lawyer to disclose information relating to the representation. See Rules 2.3, 3.3 and 4.1. In addition to these provisions, a lawyer may be obligated or permitted by other provisions of law to give information about a client. Whether another provision of law supersedes Rule 1.6 is a matter of interpretation beyond the scope of these Rules, but a presumption should exist against such a supersession.

Attorney Misconduct

[13] Self-regulation of the legal profession occasionally places attorneys in awkward positions with respect to their obligations to clients and to the profession. Paragraph (c)(2) requires an attorney who has information indicating that another attorney has violated the Rules of Professional Conduct, learned during the course of representing a client and protected as a confidence or secret under Rule 1.6, to request the permission of the client to disclose the information necessary to report the misconduct to disciplinary authorities. In requesting consent, the attorney must inform the client of all reasonably foreseeable consequences of both disclosure and non-disclosure.

[14] Although paragraph (c)(2) requires that authorized disclosure be made promptly, a lawyer does not violate this Rule by delaying in reporting attorney misconduct for the minimum period of time necessary to protect a client's interests. For example, a lawyer might choose to postpone reporting attorney misconduct until the end of litigation when reporting during litigation might harm the client's interests.

[15 - 17] ABA Model Rule Comments not adopted.

Former Client

[18] The duty of confidentiality continues after the client-lawyer relationship has terminated.

Acting Reasonably to Preserve Confidentiality

[19] Paragraph (d) requires a lawyer to act reasonably to safeguard information protected under this Rule against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, confidential information does not constitute a violation of this Rule if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the employment or engagement of persons competent with technology, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

[19a] Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other laws, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of this Rule.

[20] Paragraph (d) makes clear that a lawyer is not subject to discipline under this Rule if the lawyer has made reasonable efforts to protect electronic data, even if there is a data breach, cyber-attack or other incident resulting in the loss, destruction, misdelivery or theft of confidential client information. Perfect online security and data protection is not attainable. Even large businesses and government organizations with sophisticated data security systems have suffered data breaches. Nevertheless, security and data breaches have become so prevalent that some security measures must be reasonably expected of all businesses, including lawyers and law firms. Lawyers have an ethical obligation to implement reasonable information security practices to protect the confidentiality of client data. What is "reasonable" will be determined in part by the size of the firm. See Rules 5.1(a)-(b) and 5.3(a)-(b). The sheer amount of personal, medical and financial information of clients kept by lawyers and law firms requires reasonable care in the communication and storage of such information. A lawyer or law firm complies with paragraph (d) if they have acted reasonably to safeguard client information by employing appropriate data protection measures for any devices used to communicate or store client confidential information.

To comply with this Rule, a lawyer does not need to have all the required technology competencies. The lawyer can and more likely must turn to the expertise of staff or an outside technology professional. Because threats and technology both change, lawyers should periodically review both and enhance their security as needed; steps that are reasonable measures when adopted may become outdated as well.

[21] Because of evolving technology, and associated evolving risks, law firms should keep abreast on an ongoing basis of reasonable methods for protecting client confidential information, addressing such practices as:

- (a) Periodic staff security training and evaluation programs, including precautions and procedures regarding data security;
- (b) Policies to address departing employee's future access to confidential firm data and return of electronically stored confidential data;
- (c) Procedures addressing security measures for access of third parties to stored information;
- (d) Procedures for both the backup and storage of firm data and steps to securely erase or wipe electronic data from computing devices before they are transferred, sold, or reused;
- (e) The use of strong passwords or other authentication measures to log on to their network, and the security of password and authentication measures; and
- (f) The use of hardware and/or software measures to prevent, detect and respond to malicious software and activity.

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APPENDIX 2: PROFESSIONAL RESPONSIBILITY AGREEMENT

STETSON UNIVERSITY COLLEGE OF LAW / VETERANS ADVOCACY CLINIC STUDENT ACKNOWLEDGEMENT OF PROFESSIONAL RESPONSIBILITY RULES

1. As a student employee, intern, and/or volunteer with the Veterans Advocacy Clinic, I understand that I will be working with sensitive or confidential information either through direct access to client files or indirectly through reports, case meetings, or other work I may do in the Clinic office.
2. Prior to having any access to this type of data, I must review the Florida Rules of Professional Responsibility excerpts attached, and Virginia Rule 1.6, and sign this confidentiality agreement to show that I understand my duty of confidentiality.
3. I understand that I will be governed by the Florida Rules of Professional Responsibility, and the Virginia Rules where applicable, while working in this Clinic. I also understand that information I learn while working in the Clinic may be protected by the duty of confidentiality and/or attorney/client privilege. I understand that I may not reveal any of the information I learn in the clinic that pertains to a client's case to anyone except my supervising attorney/attorneys and the students who have been assigned to work with me on my cases.
4. I understand that I may not take client files out of the Clinic's offices without the express permission of my supervising attorney. If I am permitted to take client files out of the office, I understand that I am responsible for maintaining the confidentiality of these files. For example: I will not leave them lying around my house where my roommate or spouse might see them; I will not leave the files in my car where they might be stolen; I will not leave them on the bus or train; I will not leave them in the library or at a study carrel when I am not present; etc.
5. I understand that violating the rules of professional conduct in any way may potentially subject the University to sanctions and or damages for violations of various statutes including the Privacy Act. My violations may also subject my supervising attorney/attorneys to sanctions and discipline by the Florida and/or Virginia State Bars. Should I violate any of the rules of professional responsibility or violate any of the confidentiality requirements set forth above, I will be held accountable by the University Judicial system for this violation. It may also jeopardize my own admission to the bar. (Details regarding Stetson University College of Law's Code of Student Professionalism and Conduct are available in the current Student Handbook). My violation may also be reported to the state bar I will apply to when seeking entrance to the legal profession.
6. I understand that maintaining confidentiality includes not just safeguarding paper documents regarding to representation, but also prohibits me from using email, text, and social media (to include Facebook, Twitter, and Instagram) to discuss confidential matters regarding to this representation.

I have read and understand the Florida Rules of Professional Responsibility, and the Virginia Rules where appropriate, provided to me and this Confidentiality Agreement. I agree to be bound by the Professional Responsibility Rules and this Confidentiality Agreement.

STUDENT NAME (Print): _____

Student Signature: _____ Date: _____

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APPENDIX 3: STUDENT ACKNOWLEDGEMENT OF POLICIES AND PROCEDURES

STETSON UNIVERSITY COLLEGE OF LAW / VETERANS ADVOCACY CLINIC STUDENT UNDERSTANDING OF POLICIES AND PROCEDURES

As a student employee, intern, and/or volunteer with the Veterans Advocacy Clinic, I understand that I am responsible for following the policies and procedures of the Veterans Advocacy Clinic.

I have read and understand the Policies and Procedures Manual provided to me. I agree to consult this manual when I have questions regarding specific policies and procedures of the Clinic and to conduct ordinary business in compliance with this document.

STUDENT NAME (Print): _____

Student Signature: _____ Date: _____

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APPENDIX 4: STUDENT PERSONAL LAPTOP CONFIDENTIALITY AGREEMENT

STETSON UNIVERSITY COLLEGE OF LAW / VETERANS ADVOCACY CLINIC CONFIDENTIALITY AGREEMENT FOR STUDENTS USING PERSONAL COMPUTERS TO ACCESS ELECTRONIC FILES

This agreement addresses your duties to maintain confidentiality of client information.

The Veteran's Advocacy Clinic's (VAC) electronic files are stored on a local server ("V-drive"). Every student wishing to access the V-drive from his or her personal computer must read, understand, and comply with the contents of this agreement. Personal computer access is authorized only for current VAC employees, students, teaching assistants, and research assistants. Previous VAC students conducting pro bono work under attorney supervision may gain access under a separate agreement approved by the VAC director.

The V-drive is accessible to a student only after permissions have been granted for the personal laptop. Access is limited to when the personal laptop is connected to the law school's internet connection, and no student is permitted to open and work on V-drive files outside the clinic building without professor permission. In other words, remote access to the V-drive--or access using any other connection method--is unavailable to students. Further, printing from the V-drive is permitted only from within the VAC and only to the VAC printer.

When accessing the V-drive from your personal computer, you may open the file, edit as needed, and finish by saving the file on the V-drive. Files are not to be moved out of the V-drive, nor are files to be saved on the personal laptop (to include the desktop), any cloud based platform, or any external drive. If you accidentally save a V-drive document to such a location, you must delete the file and any copies made (to include the Recycle Bin). If you are unsure how to perform this deletion, please inform VAC leadership, who will note the file and ask you to contact Stetson's IT office.

Students must take all reasonable efforts to safeguard the information while it is open and visible on their personal computers. This includes: never leaving your computer unsecured while logged on; never allowing your screen to be visible to others while client documents are open; and avoiding any other act that may divulge client information to an outside party.

By signing below I certify that I have read, understood, and agree to abide by the terms contained within. As a student employee, intern, and/or volunteer with the VAC, I understand that I am responsible for following the VAC's policies and procedures. Failure to do so may result in professional responsibility violations, Honor Code violations, and/or violations of the Code of Student Professionalism and Conduct.

I have read and understand the Policies and Procedures Manual provided to me. I agree to consult this manual when I have questions regarding specific policies and procedures of the VAC and to conduct ordinary business in compliance with this document.

STUDENT NAME (Print): _____

Student Signature: _____ Date: _____

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APPENDIX 5: SELF-ASSESSMENT WORKSHEET

Self-Assessment Worksheet - Veterans Advocacy Clinic

Name (printed): _____

Step One: Check three to six Goals/Objectives from the following list that would most benefit you and further your personal career goals. You and your supervising attorney may have other appropriate or required goals that should be considered. Review your choices with a supervising attorney and make certain that these goals are concrete and ascertainable.

PROFESSIONAL RESPONSIBILITY:

I want to improve:

- My understanding of the rules of professional responsibility in Florida.
- My working knowledge of the rules of professional responsibility and how they affect communications with my client.
- My understanding of the rules of professional responsibility and how they impact maintaining client confidences and the attorney client privilege.
- Other:

PRACTICAL CLIENT SKILLS

I want to improve:

- My skills in managing client expectations.
- My skills communicating with my client.
- My understanding of my client's perspective.
- Other:

Self-Assessment Worksheet - Veterans Advocacy Clinic

PRACTICAL LEGAL SKILLS

I want to improve:

- My legal writing.
- My legal research skills.
- My understanding of the intersection of regulation, statute and case law.
- My legal analysis skills.
- Other:

PROFESSIONALISM

I want to improve:

- My organizational skills.
- My time management skills.
- My understanding of billing and office management.
- My presentation skills.
- My preparation skills.
- My networking skills.
- My professional appearance and demeanor.
- Other:

Self-Assessment Worksheet - Veterans Advocacy Clinic

STEP TWO: List your selected goals on the pages that follow. One goal per page.

STEP THREE: Indicate for each goal HOW you will reach each goal. The “how” should be small, concise, concrete steps that you will take to meet your goal. You should be able to measure your efforts against these goals as you go through the semester to easily ascertain if you are on the way to meeting your professional goals.

Here are some suggestions of concrete steps that you can take to measure your progress and meet your goals:

1. Complete and submit a (handbook, survey, study, analysis, literature review for publication on our web site, white paper on a subject that can help veterans to put on our website).
2. Create video clips for publication on YouTube and the website of different subject matter for veterans.
3. Prepare and give a presentation to give to local veterans groups.
4. Arrange for a guest speaker on a subject you are interested in to come to class.
5. Prepare a presentation for the class on a specific subject.
6. Make contact with local veterans groups, agencies, etc. to determine how best to serve these communities.

Create any of the following:

Articles, Idea Files, Displays/Exhibits, Press Releases, Proposals, Presentations, Newspaper Articles, Case Notes, Videos, etc.

STEP FOUR: Submit your drafted learning agreement to Prof. Simcox for review and be prepared to discuss with Professor Simcox during your first individual meeting.

STEP FIVE: Keep a copy of the learning agreement to refer to throughout the semester.

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Self-Assessment Worksheet - Veterans Advocacy Clinic

GOAL 3: _____

Concrete Steps to take to achieve this goal:

GOAL 4: _____

Concrete Steps to take to achieve this goal:

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APPENDIX 6: CLASS SCHEDULE WORKSHEET

NAME: _____

Instructions:

Please fill this out to the best of your ability and return it to Prof. Simcox by the end of the first week of classes. These dates and times will be used to coordinate the semester outreach project and movie night.

Regular Class Schedule (Course/Start Time-Finish Time):

	Monday	Tuesday	Wednesday	Thursday	Friday
8:00 AM					
9:00 AM					
10:00 AM					
11:00 AM					
12:00 PM					
1:00 PM					
2:00 PM					
3:00 PM					
4:00 PM					
5:00 PM					
6:00 PM					
7:00 PM					

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Mini Courses (Course/Dates/Start-Finish Time):

Course	Dates	Start - Finish Time
1.		-
2.		-
3.		-
4.		-
5.		-

Notes:

APPENDIX 7: TIME KEEPING GUIDANCE

ABA Litigation Code Set

L100 Case Assessment, Development and Administration

L110 Fact Investigation/Development
L120 Analysis/Strategy
L130 Experts/Consultants
L140 Document/File Management
L150 Budgeting
L160 Settlement/Non-Binding ADR
L190 Other Case Assessment, Development and Administration

L200 Pre-Trial Pleadings and Motions

L210 Pleadings
L220 Preliminary Injunctions/Provisional Remedies
L230 Court Mandated Conferences
L240 Dispositive Motions
L250 Other Written Motions and Submissions
L260 Class Action Certification and Notice

L300 Discovery

L310 Written Discovery
L320 Document Production
L330 Depositions
L340 Expert Discovery
L350 Discovery Motions
L390 Other Discovery

L400 Trial Preparation and Trial

L410 Fact Witnesses
L420 Expert Witnesses
L430 Written Motions and Submissions
L440 Other Trial Preparation and Support
L450 Trial and Hearing Attendance
L460 Post-Trial Motions and Submissions

L500 Appeal

L510 Appellate Motions and Submissions
L520 Appellate Briefs
L530 Oral Argument

A100 Activities

A101 Plan and prepare for
A102 Research
A103 Draft/revise
A104 Review/analyze
A105 Communicate (in firm)
A106 Communicate (with client)
A107 Communicate (other outside counsel)
A108 Communicate (other external)
A109 Appear for/attend
A110 Manage data/files
A111 Other

E100 Expenses

E101 Copying
E102 Outside printing
E103 Word processing
E104 Facsimile
E105 Telephone
E106 Online research
E107 Delivery services/messengers
E108 Postage
E109 Local travel
E110 Out-of-town travel
E111 Meals
E112 Court fees
E113 Subpoena fees
E114 Witness fees
E115 Deposition transcripts
E116 Trial transcripts
E117 Trial exhibits
E118 Litigation support vendors
E119 Experts
E120 Private investigators
E121 Arbitrators/mediators
E122 Local counsel
E123 Other professionals
E124 Other

Time Descriptions: Time descriptions should be sufficiently detailed to enable the recipient to identify the specific activity performed, the time spent on the activity and its purpose and relationship to the matter. Vague descriptions such as "receipt and review," "research," "strategy," "conference" and "trial preparation" are non-descriptive and should be avoided. The following examples demonstrate what a preferred description would look like for each of these categories.

- Entries for review should identify the specific item(s) reviewed and the purpose of the review (*e.g.*, "Review plaintiff's medical records from Pacific Medical Center in preparation for deposition of Dr. Green").

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- Entries for research should identify the particular issue(s) researched and the purpose of the research (*e.g.*, "Research regarding statute of limitations on cause of action for breach of warranty in connection with preparation of motion for summary judgment").
- Entries for conferences should identify the participants in and the subject matter of the conference (*e.g.*, "Telephone conference with plaintiff's attorney Carol Brown re settlement demand").
- Entries for the drafting or review of correspondence should identify the recipient or sender and the subject matter of the correspondence (*e.g.*, "Review correspondence from Robert White, HR Director, re termination meeting").
- Entries for trial preparation should identify the specific activities performed (*e.g.*, "Prepare outline for cross-examination of plaintiff in preparation for trial set for February 11, 2012").

Avoid Block Time Entries

Block time entries list a group of tasks in a block summary under a single time charge, rather than showing a description of each task and the actual time associated with it individually. For example, a timekeeper may list all of the tasks performed on a matter in a particular day in one time entry (*e.g.*, "Draft settlement terms, conference with plaintiff's attorney re settlement, telephone call to Sally Green re status: 5.5 hours").

The use of block billing obscures the actual time spent on each task contained within such an entry. Block billing is a practice frowned upon by experienced consumers of legal services. Each task performed and the time associated with it should be entered as a separate transaction.

Examples

- *Review prodecural history*: Review Board of Veterans' Appeals ("BVA") decision and draft outline of potential issues to raise on appeal (2.5).
- *Call to Client*: Teleconference with client regarding BVA decision and issues to raise on appeal (0.3).
- *Draft correspondence*: Draft letter regarding status of appeal, including informing client that a Notice of Appeal and Notices of Appearance have been filed with the Court.
- *Permissible block entry because of the breakdown of hours*: Draft Statement of the Facts (2.9 total) – Draft Statement of the Facts regarding procedural and medical histories (2.0); Draft Statement of the Facts regarding BVA decision (0.6); Review case law for preparation of argument (0.3).

END OF MANUAL