Marquette Volunteer Legal Clinics

VOLUNTEER ATTORNEY TRAINING

PROFESSIONAL RESPONSIBILITIES OF LIMITED SCOPE REPRESENTATION
Training Overview

1 CLE ethics credit: please sign-in and complete evaluation
MVLC Mission
To serve the Milwaukee community in Marquette’s Jesuit tradition of service by increasing access to justice while providing learning and mentoring opportunities for law students.
SCR 20:6.1 Voluntary Pro Bono Service

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono legal services per year.
Pro Bono Perks

<table>
<thead>
<tr>
<th>CLE CREDIT FOR PRO BONO WORK</th>
<th>PRO BONO HONOR SOCIETY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under Chapter 31 of the Supreme Court Rules: Wisconsin lawyers can claim one hour of CLE credit for every five hours of pro bono work in qualified pro bono programs, up to a maximum of six credits per reporting period. Qualified pro bono programs include those operated by a Wisconsin law school or a Wisconsin bar association.</td>
<td>Honors Wisconsin lawyers who have performed at least 50 hours of qualifying pro bono legal services during the past calendar year. Created by the WI Access to Justice Commission with support from the State Bar’s pro bono program. <a href="http://wisatj.org/projects/probonosociety">http://wisatj.org/projects/probonosociety</a></td>
</tr>
</tbody>
</table>
Volunteers are our Core

- 500 volunteers annually (300 attorneys, 200 law students).
- Free Brown Bag CLE provided online or in-person.
- Volunteer accounts online. We track your time and submit names of people who complete 50+ hours to WI Pro Bono Honor Society.
- Professional liability coverage provided by Marquette University.
- Volunteer newsletter.
- Annual spring party at Trinity Three Irish Pubs.
Who are our clients?
Over 5,000 Clients Served in 2017

56% Female 70% of clients live at or below 125% of FPL

<table>
<thead>
<tr>
<th>Family Size</th>
<th>Gross Annual</th>
<th>Gross Monthly</th>
<th>Gross Weekly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$15,075</td>
<td>$1,256</td>
<td>$290</td>
</tr>
<tr>
<td>2</td>
<td>$20,300</td>
<td>$1,692</td>
<td>$390</td>
</tr>
<tr>
<td>3</td>
<td>$25,525</td>
<td>$2,127</td>
<td>$491</td>
</tr>
<tr>
<td>4</td>
<td>$30,750</td>
<td>$2,563</td>
<td>$591</td>
</tr>
<tr>
<td>5</td>
<td>$35,975</td>
<td>$2,998</td>
<td>$692</td>
</tr>
<tr>
<td>6</td>
<td>$41,200</td>
<td>$3,433</td>
<td>$792</td>
</tr>
</tbody>
</table>

125% of the Federal Poverty Level Guidelines
State-Allocated Funding For Free Legal Aid
Legal Aid Can Save Costs

- Housing: Prevent evictions and foreclosures
- Health: Promote health & prevent illness by helping with benefits or remedying conditions that caused the problems
- Domestic Violence: Prevent recurrence resulting in fewer hospital visits
- Seniors: Prevents guardianships, financial abuse, and consume fraud
- Veterans and Military Families: Assists with benefits claims

Inadequate-Funding ≠ Cost-Savings
What Legal Issues do Clients Bring?

- Family & Safety: 28%
- Money & Debt: 23%
- Housing & Apartment: 19%
- Health & Benefits: 10%
- Estate Plans: 9%
- Traffic: 6%
- Immigration: 5%
MVLC Brief Legal Advice & Referral Services

“I won a small claims suit and need to collect.”

“I need help resolving a debt.”

“How do I request a change to my child support, placement, or custody order?”

“I was served with eviction papers, what do I do?”

“I received some complicated legal papers and do not understand them.”

“I need a will.”

“I want to change my name.”

“Someone in my family needs a legal guardian appointed.”
Four Brick & Mortar Locations
Mobile Legal Clinic
Three Topical Clinics

- Family Law Advice Clinic at the Milwaukee Justice Center
- Marquette Legal Initiative for Nonprofit Corporations
- Estate Planning Clinic
  House of Peace, Veterans Service Office, & United Community Center
Clinic Model: What we do

Law student and lawyer team-up.

Student greets client in the waiting area, brings to meeting place, and provides the explanation of clinic services.

Student and attorney conduct the client interview together.

The law student takes notes for the clinic and for the client, conducts research, makes copies, finds resources, forms & checklists, finds a supervisor if necessary.

The attorney is responsible for providing the legal advice.

Civil legal issues only.

Get as much done as possible with the client: write a letter together, complete the forms together, make the necessary copies, get document notarized, etc.
- CLIENTS USE THE NOTES AS THEIR GUIDE

- SUPERVISORS AND FUTURE VOLUNTEERS RELY ON THE NOTES IF FOLLOW-UP IS REQUESTED

Student Notetaking: Please Supervise
<table>
<thead>
<tr>
<th>For Volunteers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Visit Date</strong></td>
<td>10/12/2017 2:00 PM</td>
</tr>
<tr>
<td><strong>Service Location</strong></td>
<td>MVLC @ MJC</td>
</tr>
<tr>
<td><strong>If Special Clinic</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Volunteer Law Student</strong></td>
<td>Shelly</td>
</tr>
<tr>
<td><strong>Volunteer Lawyer</strong></td>
<td>Nicole, Megan</td>
</tr>
<tr>
<td><strong>Interpreter Name (if present)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Statement of Facts</strong></td>
<td>Bought house in January, the roof has a lifetime warranty, have leaks, they are not coming to fix roof. Says he will come, but doesn't. Last contacted 3 weeks ago, insurance won't cover roof because the roof is under warranty. Out $1,400.00 to pay someone else and now there are more problems. Has had other contractors work on the roof.</td>
</tr>
<tr>
<td><strong>Legal Questions Presented</strong></td>
<td>What does he do about his roof because it is under warranty?</td>
</tr>
<tr>
<td><strong>Legal Advice Provided</strong></td>
<td>We could write a letter to roof company demanding he come and fix roof. Explains pros and cons of sending letter. We could file a small claims law suit. Explained legal process of civil claim and costs. Fill out small claims paperwork. Went over paperwork checklist and fee waiver. He needs to get receipts and invoice to finish paperwork.</td>
</tr>
<tr>
<td><strong>Case Category</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Legal Issue 1</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Legal Issue 2</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Referral Made</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Second Referral Made</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Fee Waiver Competed</strong></td>
<td>✔</td>
</tr>
</tbody>
</table>
Legal Resources

Uniform bookmarks on all clinic computers

- MVLC Updates Tab
- MVLC Topical Guides
- Milwaukee Justice Center’s Forms & Checklists
What we don’t do

1. Criminal Law
2. Employment Discrimination
3. Commercial Real Estate Transactions
4. Public School Law
5. Complex Litigation & Anything You Decide is Ill-Suited for Brief Advice
Limited Scope Representation SCR 20:1.2

A lawyer may limit the scope of the representation if the limitation is:

- Reasonable under the circumstances and
- The client gives informed consent.
If competency is compromised by limiting the representation, it is ill-suited for brief advice.

Competence SCR 20:1.1. A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule Comment 7 to SCR 20:1.2: 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.

Rule Comment to SCR 20:1.1: 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.
<table>
<thead>
<tr>
<th><strong>Visit Date</strong></th>
<th>6/5/2017 4:00 PM</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Service Location</strong></td>
<td>MVLC @ VSO</td>
</tr>
<tr>
<td><strong>Volunteer Law Student</strong></td>
<td>Alexis</td>
</tr>
<tr>
<td><strong>Volunteer Lawyer</strong></td>
<td>Kim</td>
</tr>
<tr>
<td><strong>Interpreter Name (If present)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Statement of Facts</strong></td>
<td>Would like to make a will. Client is not married but has been with partner for 24 years. Liver damage from medication introduction and thinking about end of life matters.</td>
</tr>
<tr>
<td><strong>Legal Questions Presented</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Legal Advice Provided</strong></td>
<td>Make appointment with Estate Planning Clinic. Printed out a guide containing questions to consider before your will appointment. Call WI State Bar for attorney referral.</td>
</tr>
<tr>
<td><strong>Client Signature</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Out Time</strong></td>
<td>6/5/2017 4:30 PM</td>
</tr>
</tbody>
</table>
A few things are not reasonable under the circumstances:

- Employment discrimination
- Public school law
- Commercial real estate transactions
- Complex litigation
- Anything else you deem too complex
Limited Scope Representation SCR 20:1.2

A lawyer may limit the scope of the representation if the limitation is:

- Reasonable under the circumstances and
- The client gives informed consent.
Informed Consent, SCR 20:1.0(f)

Three elements to informed consent, all included in our written explanation of clinic services provided by students to clients:

1. Explanation of facts and circumstances
2. Explanation of the material advantages and disadvantages of a proposed course of conduct
3. An explanation of available options and alternatives
Informed consent need not be given in writing if the representation is provided by a lawyer ... participating in a program sponsored by ... an accredited law school, or a court and lawyer’s representation consists solely of providing information and advice or the preparation of court-approved legal forms. SCR 20:1.2(c)(1)

This is the law student's job.
What about conflicts? SCR 20:6.5

Special rule for lawyers who participate in advice-only legal clinics with protection from unintentional conflicts of interest.

- SCR 20:6.5. Nonprofit and court-annexed limited legal services program.
- (a) A lawyer who, under the auspices of a program sponsored by ... an accredited law school ... provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter: (1) is subject to Rules 1.7 (conflict with current clients) and 1.9(a) (duties to former clients) only if the lawyer knows that the representation of the client involves a conflict of interest; and (2) is subject to Rule 1.10 (imputed disqualifications) only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter. (b) Except as provided in paragraph (a) (2), Rule 1.10 is inapplicable to a representation governed by this Rule.
Ghostwriting SCR 20:1.2(cm)

- A lawyer may prepare pleadings, briefs, and other documents to be filed with the court so long as such filings clearly indicate thereon that “This document was prepared with the assistance of a lawyer.”
- Not required for court forms drafted by the Wisconsin Courts system.
- We draft everything as the client. Assume they are proceeding pro se.
Act 317, Landlord-Tenant Law
Did it change the ghostwriting rule?

Prior to Act 317, ghostwriting was expressly permitted by rule. A Supreme Court Order effective January 1, 2015 created a rule of professional conduct, a rule of civil procedure, and a rule of appellate procedure.

When Act 317 passed, only the rule of civil procedure was changed to say that a lawyer must provide their name and bar number:

- A lawyer may prepare pleadings, briefs, and other documents to be filed with the court so long as such filings clearly indicate thereon that “This document was prepared with the assistance of a lawyer” followed by the name of the attorney and the attorney’s state bar number.

Act 317 became effective on April 28, 2018. The court-created rule and the legislature-created statute have co-equal authority.
Options

- Disclose your name and bar number when drafting documents.

This document was prepared with the assistance of an attorney in a brief legal advice clinic without expectation of ongoing representation. Angela Schultz, 1073681

- Don’t disclose in reliance on Rule 20:1.2(cm).

This document was prepared with the assistance of a lawyer. No further disclosure is required. See SCR 20:1.2(cm)

- See if another lawyer will disclose after reviewing your work.

- Don’t draft anything.
# Writing Letters

<table>
<thead>
<tr>
<th>Statement of Facts</th>
<th>Sent letter to DoT asking for hearing. DoT said they will call him for a hearing. Still getting &quot;collection&quot; letters from other diver's insurance/lawyer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Questions Presented</td>
<td>What can client do to stop the letters saying money is owed?</td>
</tr>
<tr>
<td>Legal Advice Provided</td>
<td>We prepared a cease and desist letter disputing claims and stating they are acting in bad faith by not providing evidence supporting their claim. Also pointed out they cannot collect without a judgment and they do not have a judgment.</td>
</tr>
<tr>
<td>Client Signature</td>
<td></td>
</tr>
<tr>
<td>Out Time</td>
<td>5/31/2017 1:30 PM</td>
</tr>
</tbody>
</table>
SCR 20:4.2
Communicating with Person Represented by Counsel

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

Rule comments include:

This rule does not preclude communication with a represented person who is seeking advice from a lawyer who is not otherwise representing a client in the matter.
Referrals

Be careful.
Prepare the client / manage expectations.
Visit websites. Print referral information.
Check with supervisors.
If sending to LRIS, help client prepare for lawyer meeting.
When giving names, give at least three.
Contact Us

www.marquettelegalclinic.org

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Executive Director of the Milwaukee Justice Center

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MVLC Program Assistant