

Health Law Externship

Fall 2016

Professor Thaddeus Mason Pope

Mitchell Hamline School of Law

Meeting Time: Select Tuesdays from 4:00 to 5:55

Place: MHSL 204

Contact: Thaddeus.Pope@mitchellhamline.edu
MHSL 320

I. Course Description

Externships give law students the opportunity to engage in meaningful legal work under the close supervision of practicing attorneys (as well as compliance officers, risk managers, and other legal professionals). This course focuses on Externships in health law and healthcare compliance.

In the past academic year, students have worked for a wide range of companies.

- **Government** placements include the U.S. Attorney for the District of Minnesota (Healthcare Fraud Unit) and the Minnesota Department of Human Services (multiple departments).
- **Law Firm** placements include Fredrikson & Byron, Friedmann Foarde, JurisHealth, and Scheller Legal Solutions.
- **Hospital & Provider** placements include Children's Hospitals & Clinics of Minnesota, HealthPartners, and M-Health Physicians.
- **Device & Equipment Manufacturer** placements include CryoLife, EcoLab, and Vital Images.
- **Other** placements include Novu and the Public Health Law Center.

Your placement should have been finalized before the start of the semester. You will spend most of your time and effort working for your Field Placement. This syllabus addresses only the classroom component of the Externship.

II. Course Objectives

Given the wide range of Field Placements, students have varying experiences in the health law Externship. But core course objectives include:

- Apply your classroom learning, especially that pertaining to health law, to the real world of practice.
- Improve your problem-solving skills and become more self-confident in the work setting.
- Explore your career interests by gaining real-world exposure to different types of legal work and work environments.
- Improve your prospects for employment by networking, by getting references, and by gaining a recognized credential.

In particular, core course objectives include developing and/or honing some or all of ten fundamental lawyering skills:

1. **Problem Solving:** A lawyer must be able to develop and evaluate strategies for solving a problem or accomplishing an objective.
2. **Legal Analysis:** A lawyer must be able to analyze and apply legal rules and principles.
3. **Legal Research:** A lawyer must be able to identify legal issues and research them thoroughly and efficiently.
4. **Factual Research:** A lawyer must be able to plan, direct, and (where applicable) participate in factual investigation.
5. **Communication:** A lawyer must be able to communicate effectively, whether orally or in writing.
6. **Client Counseling:** A lawyer must be able to counsel clients about decisions or courses of action.
7. **Negotiation:** A lawyer must be able to negotiate in either a dispute-resolution or transactional context.
8. **Strategic Planning:** A lawyer must understand the potential functions and consequences of litigation and alternative dispute resolution.
9. **Organization and Management of Work:** A lawyer must be familiar with the skills and concepts required for efficient management.
10. **Ethical Analysis and Conduct:** A lawyer must follow ethical standards when representing clients.

III. Mentor Meetings

1. If you have not done so prior to the start of the semester, you are expected to meet with your mentor no later than August 30, 2016. Please email me after you have had this initial meeting. The objectives of this meeting are to:
 - a. Properly introduce yourself
 - b. Discuss academic expectations of the Health Law Externship
 - c. Develop a preliminary schedule for your work hours
 - d. Answer any questions that your mentor may have about the Externship
 - e. Articulate several specific experiences that you hope to have during your externship
2. Prior to the end of the semester you are expected to formally thank your mentor through a personal letter of appreciation.

IV. Readings & Written Assignments

1. This syllabus is for ONLY the classroom component of your Externship. You must complete all assignments for your Attorney Mentor. That is the primary focus of the Externship and will consume most of the time that correlates to the number of credits for which you are taking this Externship.
2. In addition to work for your Attorney Mentor, you must also complete written assignments from the Externship law faculty supervisor (Professor Pope).
3. This is not a heavy reading course; however, every student will be responsible for a general appreciation of the *ABA Model Rules of Professional Conduct* concerning confidentiality and conflicts of interest. Other readings and assignments for classroom meetings will be distributed by Professor Pope.

V. Assessments

1. No letter grade is given for the classroom component. But attendance and submission of written assignments is required for credit. The Field Placement is evaluated on a pass/fail basis.
2. I will provide feedback on your written submissions and on your contributions in the classroom discussions.
3. I will ask your Field Placement supervisors to complete comprehensive written assessments both at the middle and at the end of the semester.

VI. Externship Class Schedule

1. This course will meet *as a whole* only four times:
 - a. Tuesday, August 23
 - b. Tuesday, September 13
 - c. Tuesday, October 18
 - d. Tuesday, November 1
2. In addition, you must also meet *at least twice*, one-on-one, with Professor Pope. One meeting should be in the first five weeks of the semester. The other one should be in the last five weeks of the semester.
3. In between these six meetings, Professor Pope will respond (usually by email) to your time sheets and journal reflections. He will also send comments on your resume, LinkedIn pages, and other career-related documents.

VII. Your Timesheets

1. You must keep track of all the hours that you spend on work at and/or for your Field Placement.
2. This Externship can be taken for 3 or 4 credits. You must complete 45 hours at your Field Placement for each credit: 135 or 180 hours. How you break that down is a mutual decision between you and your supervisor. For example, you might do 14 hours per week for 10 weeks or 10 hours per week for 10 weeks.
3. The law school will provide a link for you to log these hours with descriptions. Please be as descriptive as possible being mindful of the need to protect confidential, private, privileged, and other protected information.

VIII. Your Oral Presentations

1. **Content.** Each student must make two presentations to the class.
 - a. Early in the semester, the student will present on the mission of her company and the workplace setting.
 - b. Early in the semester, the student will present on the nature of the work that you performed. In this presentation you may focus on any aspect of your Externship. You can summarize the experience as a whole or describe just one particularly interesting project.
2. **Duration.** Please design your presentations to be completed within fifteen (15) minutes.

3. Format

- a. This is hardly a comprehensive guide to preparing and making an oral presentation. It is merely an outline of some of the key tips offered in some of the standard literature.
- b. I will also post some useful materials on the Blackboard site.
- c. Preparation
 - i. Practice aloud.
 1. Read at least practice the first paragraph aloud several times, so you can start strong. Know precisely what you are going to say for the first minute of your presentation. Almost as important: know exactly how you will end.
 2. Practice on your feet to coordinate body, brain, and voice
 3. Time yourself, so you know that you will stick to the 10 minutes.
 - ii. Use as few notes as possible.
 1. Use bullet points to trigger thoughts.
 2. Write big and keep notes where they are easy to see. If you are using a script, print it in at least a 14-point font
 3. Anticipate likely questions and have clear, concise answers ready. e.g. "I'm glad you asked that..."
 - iii. Delivery
 1. Mark your script/notes for pacing and pauses. Pauses are okay. They give you time to think and the audience time to absorb.
 2. Speak in phrases, not whole sentences.
 - a. Use the rhythm of the Pledge of Allegiance: e.g. "I pledge allegiance . . . to the flag . . . of the United....."
 - b. Vary the pace. Speak in phrases on important points. Speak more briskly for preliminary information.
 - c. Emphasize.
 - i. Put emphatic stress on all the key words in every sentence.
 - ii. Lower the vocal pitch (not volume) when ending sentences. This makes you sound confident and conclusive.
 - iv. Visual counts the most.
 1. A speaker's believability is affected by three components. Verbal (the content of our message) counts for 7%. Vocal (sound, pitch, tone, pacing of our voice) counts for 38%. Visual (gestures, facial expression, eye contact) counts for 55%.
 2. Stand when speaking. It increases your energy level and keeps the audience more alert.
 3. A listener's ability to comprehend and retain information increases substantially with the use of visual aids.

- v. Physical performance
 1. Take a deep breath before you begin.
 2. Maintain eye contact with each listener for 3-5 seconds.
 3. Smile.
 4. Lean forward. It says “I’m interested” “Tell me more.”

- vi. Clarity
 1. Lay out the structure of your presentation for the listeners. Let listeners know why the topic is important. Why should they listen to you?
 2. Repetition is good. Tell them what you are going to tell them. Tell them. Then tell them what you’ve told them.
 3. Shrink and simplify. Boil the presentation down to 3 main points. State the 3 points at the beginning and repeat them at the end.
 4. Use vibrant images, metaphors, analogies, examples. A long narrative with no examples becomes boring and confusing. Try to include at least one example to illustrate each main point.
 5. Use focus phrases. e.g. “The bottom line is...” “The threshold question is...” These phrases focus the mind of the listener.
 6. Use transition phrases (e.g. “Now that we have analyzed the problem, let’s look at possible solutions...”)

IX. Other Rules

1. ABA 305-02 provides: “A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.”

2. Please contact me immediately if you have any questions or concerns about your Field Placement.

Placement	Nature of the work	Students
Children's Hospitals & Clinics of Minnesota	Work with 3 attorneys in the general counsel office on a wide variety of legal issued. The work also overlaps with privacy, compliance and other departments	Tracy Jacobs S16 Ma Xiong S16 Valeria Chazin F15 Leah Fitzgerald Amanda Pittman
CryoLife	Corporate governance	Heather Bughman S16
Department of Justice: US Attorney for the District of Minnesota	<p>Work on False Claims Act litigation with the healthcare fraud unit</p> <p>For every dollar spent on healthcare-related fraud and abuse investigations in the last three years, the government recovered >\$12.00. The government's health care fraud prevention and enforcement efforts recovered a record over \$4 billion in taxpayer dollars last year. The healthcare fraud unit in the Minnesota office of the Department of Justice combats healthcare fraud by pursuing investigations and civil enforcement actions in federal court. Matters include unlawful pricing by pharmaceutical manufacturers, illegal marketing of medical devices and pharmaceutical products for uses not approved by the Food and Drug Administration, Medicare fraud by hospitals and other institutional providers, and violations of laws against self-referrals and kickbacks.</p>	Kristin Kemmerling F16 Ava Cavaco S16 Ken Champion F15 Tyler Cowart S15 Erik Peterson F14
Minnesota Department of Human Services (appeals)	<ul style="list-style-type: none"> • Provide legal assistance to, and conduct legal research for, the Chief human services judges and human services judges on several aspects of the appeals process including scheduling, prehearing conferences, subpoenas and memoranda • Observe hearings and assist human services judges in legal research and drafting decisions • Assist Chief human services judges in review, legal research and determination of decisions on reconsideration, provide oral and written support for analysis to chief human services judges • Redact decisions for publication • Additional assignments may include analyzing and drafting decisions settling county financial disputes over payment responsibilities for public assistance clients 	
Minnesota Department of Human Services (civil rights)	<ul style="list-style-type: none"> • Assist in evaluating and revising department civil rights policies and procedures • Assist in reviewing, revising and finalizing county agency civil rights plans • Conduct legal research on civil rights issues • Assist with civil rights investigations • Consult with Federal enforcement agencies to develop civil rights trainings 	

	<ul style="list-style-type: none"> • Develop administrative processes to execute the department’s civil rights complaint investigations and update the complaint database, as needed • Help maintain complaints and correspondence from the public 	
Minnesota Department of Human Services (compliance)	<ul style="list-style-type: none"> • Assist the Chief Compliance Officer, Chief General Counsel, and Senior Counsel in providing guidance to management and employees concerning compliance issues • Consult with management and employees as needed to resolve difficult legal compliance issues • Assist in evaluating and revising agency policies, as needed, to ensure compliance • Conduct legal research and draft memoranda responding to alleged violations of rules, regulations, policies, and procedures • Assist in identifying potential areas of compliance vulnerability and risk • Assist in developing agency’s Direct Care and Treatment Compliance Plan • Assist in coordinating compliance activities of divisions within the agency to remain abreast of the status of all compliance activities and to identify trends • Assist in developing / implementing corrective action plans for resolution of problematic issues, and provide general guidance for avoiding similar situations in the future 	Stephanie Nortman
Minnesota Department of Human Services (administrative)	<ul style="list-style-type: none"> • Review and analyze the record for licensing appeals • Prepare legal advice memoranda and present analyses to the Chief Compliance Officer along with other senior management attorneys at the Administrative Law Forums • Conduct legal research for and draft final agency decisions, revising as needed • Review and analyze the record for licensing appeals 	Ma Xiong F14
Minnesota Department of Human Services (legislative)	<ul style="list-style-type: none"> • Assume responsibility for drafting of Legislative Director’s Manual, which will require: • Learning intricacies of legislative process and responsibilities of Legislative Director • Meeting with agency-wide internal stakeholders regarding business area legislative needs 	
Minnesota Department of Human Services (OIG)	<ul style="list-style-type: none"> • Assist with drafting legislative proposals in a variety of areas including fraud enforcement tools/authority, data access and law enforcement issues • Provide legal research, writing and analysis on issues concerning civil, administrative and criminal aspects of identifying, investigating and prosecuting healthcare fraud • Compare state, federal and administrative authority to assist in developing protocols for combating fraud, 	

	waste and abuse, such as the use of surety bonds, administrative disqualifications and the use of civil monetary penalties	
Minnesota Department of Human Services (privacy)	<ul style="list-style-type: none"> • Research and analyze state and federal laws on data privacy • Draft advice memos to internal staff regarding data privacy • Receive and analyze data disclosure incidents • Review and update policies and procedures • Create training materials for the Privacy Official • Assist in the creation and research for data sharing agreements 	Brian Cross
DuVal & Associates	Device, FDA regulatory	Christina Becker
Ecolab	Corporate governance and regulatory affairs	Heather Bughman S16 Andy Roller
Fraser	Special needs	Janelle Schlosser F15
Fredrikson & Byron	Health licensing and other related work with partner David Bunde	Anja Siverston S16
Friedemann Foarde	Transactional	Aaron Dobosenski F15 Erik Peterson
Halunen	<p>Halunen Law attorneys represent whistleblowers across the United States in qui tam claims under the False Claims Act and other laws that provide significant financial rewards for exposing fraud against government agencies or programs.</p> <p>Halunen Law represented a relator in an FCA claim against Abbott Laboratories that resulted in a civil settlement of \$800 million (total settlement of \$1.5 billion). This is the fifth largest civil healthcare recovery ever achieved under the FCA. The firm’s cases include fraud against the government in the area of pharmaceutical and medical product sales, and provision of health care and home health services, as well as other types of fraud involving, for example, government procurement and small business set asides.</p> <p>Besides its False Claims Act practice, Halunen Law also has an active litigation practice representing plaintiffs, including whistleblowers, in employment cases and cases alleging consumer fraud of all types.</p> <p>Depending on your interests, this Externship could provide you with a number of opportunities, including:</p> <ul style="list-style-type: none"> • participation in the active development of False Claims Act cases with a focus on health law • researching legal issues relevant to False Claims Act cases in the area of health law 	Melanie Ewald F16

	<ul style="list-style-type: none"> • writing articles or blog entries on False Claims Act health law issues and cases • observing and participating in litigation activities of this active plaintiff-side law firm 	
Health Partners	General counsel – work on a wide variety of law with dozens of attorneys. This Externship includes a significant mentoring program.	William McDonough F16 Billy Warren S16 Andrew Scherf F15 Paul Buchel S15
Jardine Logan	Medical malpractice litigation defense	Karin Stuart
JurisHealth (Amy J. Holzman & Shireen Gandhi)	Compliance	Denys Medrano S16
Mayo Clinic	Privacy	Morgan Vanderburg
Medtronic	Compliance – both corporate compliance in the central office and healthcare compliance in the individual business units	Carl Poulsen
Mid-MN Legal Aid	MNSURE	Charlene Sul
Minnesota Hospital Association	Lobbying, research on issues impacting hospitals	
NOVU	Compliance	Larissa Boswell S16
OIG (DHHS)	Health care fraud	Chad Lynch
Optum		Jason Danzl Lindsey Millard
Planned Parenthood	Compliance	Ann McFarland SU16
Public Health Law Center	Tobacco, healthy eating, other prevention	Jason McFarlin F15 [others for pay]
Rainbow Health Initiative		
Scheller Legal	Elder law, nursing home litigation	Kristin Kemmerling S16 Aaron Sagedahl F15 Michael Manning
Stinson Leonard Street	<ul style="list-style-type: none"> • The Extern will be supervised by Pro Bono Director Theresa Murray Hughes on a weekly basis on Deinard Legal Clinic cases. • The law firm runs a poverty law clinic in the Phillips neighborhood in Minneapolis and Murray Hughes serves as the staff liaison between the clinic and the law firm. • The student will work with Murray Hughes on the initial client intake and screening meetings, as well as interface with staff at the Community University 	Ellen Anderson F16 Kimberly Woodgate S16 Craig Downs

	<p>Health Care Center (CUHCC) on client matters and case support.</p> <ul style="list-style-type: none"> • Given that the student will have had the Professional Responsibility course, s/he under the direction of Murray Hughes, will meet with prospective clients to determine what their legal issues and needs are. • The cases will then come back to Murray Hughes for further screening and intake and then presented on a weekly basis to a five-attorney committee that meets to screen the matters. The Extern, if s/he so desires, will also attend those meetings. • The Extern will also work with a variety of Stinson Leonard Street attorneys in the Minneapolis office in support of those attorneys' pro bono matters from the Deinard Legal Clinic. The range of cases, that attorneys work on from the clinic involve: Social Security Insurance (SSI) appeals, a broad range of family law matters, housing issues, immigration matters (specifically: permanent residency, citizenship and UVisas), consumer/identity theft issues and criminal expungements. In those instances, the Extern will be supervised by the attorney who is actually handling the case and will be supporting that person in a law clerk position. 	
UMN CUHC	Compliance, privacy, and other	Amanda Carter Jared Knapp Cassandra Heinrich
UMN (other)	Compliance	
University of Minnesota Physicians	Variety of law, overlap with compliance	Tyler Cowart S16
Vital Images	advanced visualization software	Aaron Sagedahl S16