



RHODES UNIVERSITY

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Grahamstown • 6140 • South Africa

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

Web Page: <http://www.ru.ac.za/academic/faculties/law>

LEGAL PRACTICE 2022

1. INTRODUCTION

1.1 Overview

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

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

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

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

Students are normally required to work at the Law Clinic as a component of the course, involving appropriate assessment methods (see paragraph 6 below), but this is of course not possible while students are not on campus. Law Clinic work is usually integral to the course, and simultaneous classroom and experiential learning has proven to be a powerful tool for teaching and learning of practical skills.

1.2 Credit Value

10 credits.

1.3 Assumptions of Prior Learning

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

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

- be capable of independent learning;
- be able to work in groups.

Note: by “working knowledge” is meant:

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

2.1 Critical Outcomes

Students will be able to:

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

2.2 Intended Specific Outcomes

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

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

The teaching method adopted is *learning by doing*. Lectures are used as follows:

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

Outside lecture periods, students are required to complete other tasks, including consultation exercises and other assignments.

4. COURSE CONTENT

File Management

- Opening and managing a client file

Professional Conduct

- Selected areas of legal ethics

Consultation skills

- Consultation Assessment

Communication skills

- Letter-writing skills
- Other modes of communication

Drafting skills:

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

5. RESOURCES

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

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

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

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

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

Rhodes University Law Clinic Student Instruction Manual.

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

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

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

6. STUDENT ASSESSMENT

6.1 TYPES OF ASSESSMENT

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

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

Continuous Assessment/file management	40%
Consultation Assessment	20%
Actions Assignment	15%
Applications Assignment	15%
Professional Conduct & Communications Test	10%
	<u>100%</u>

6.2 ASSESSMENT OUTCOMES

Specific Outcomes	Assessment Criteria	Assessment Tasks
At the end of this course, students must be able to:	The evidence students must provide in order to show that they are competent	How evidence of competence is collected
1. Conduct an effective consultation and write a consultation note.	Demonstrate the ability to: <ul style="list-style-type: none"> • Establish an effective working atmosphere • Learn a client's goals and expectations • Gather a comprehensive set of facts • Analyse the client's problem • Give correct advice • Obtain instructions • Effectively conclude consultation • Draft a thorough and correct consultation note • Deal sensitively and professionally with cultural and language differences 	<ul style="list-style-type: none"> • Consultation exercise and assessment. • Examination of students' Law Clinic files. • Oral file presentation sessions.
2. Draft letters and communicate effectively with	Demonstrate the ability to: <ul style="list-style-type: none"> • Draft a letter of demand • Draft a response to a letter of 	<ul style="list-style-type: none"> • Examination of students' Law Clinic files.

clients and others.	<p>demand</p> <ul style="list-style-type: none"> • Use correct grammar • Use letters to report and record information • Use certain legal principles and devices effectively • Communicate effectively using the telephone 	<ul style="list-style-type: none"> • Oral file presentation sessions.
3. Draft certain pleadings and applications	<ul style="list-style-type: none"> • Explain the essential purpose of different types of pleadings, namely: <ul style="list-style-type: none"> - particulars of claim - plea - applications • Draft these pleadings and applications or certain sections thereof. • Describe the necessary allegations to be made in court pleadings and applications. 	<ul style="list-style-type: none"> • Written assignment in which students are required to draft certain pleadings. • Tests in which students may be asked to draft the above documents.

7. EVALUATION

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