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In-house clinical courses in legal colleges of the USA

Practice plays the important role in lawyers' training that involves the improvement of students' professional skills, the formation of responsibility and correction of the necessary personal qualities¹.

The main purpose of the practice is considered to provide students with key values of the profession, namely the search of justice and the access to justice, the respect for the rules of the law, understanding of integrity and fairness, and understanding of the necessity to deal with a variety of clients effectively.

While studying and analyzing the results of works the following scientists A. Shalleck, A. Amsterdam, B. Cooper, C. Menkel-Meadow, D. Rhode, E. Milstein, G. Hess, G. Munro, M. Berry, Ph. Schrag and others allows to assert that practice is carried out in legal clinics in colleges of the USA. Legal clinics can be both at the Law College and out of it. Scientists say that legal clinics are educational establishments which provide legal aid to poor people or conduct the research activity under the guidance of a mentor-lawyer.

American scientist Steven Hartwell² has highlighted three areas of knowledge in which students should be involved during practice:

- Cognitive (increasing complexity of analytical processes).
- The area of execution (law practice).
- Emotional area (assessment, attitude).

On the basis of research of A. Amsterdam's work³ the following goals of clinical education are identified:

- to disclose students the requirements, the restrictive scope and methods of thinking while performing the role of a lawyer;
- to disclose students the requirements, the restrictive scope and methods of analysis while dealing with spontaneous situations;
- to give students the opportunity to study the interaction of legal analysis and human behavior;
- to provide students with the opportunity to learn from their own experience;

¹ Обучение в юридической клинике (правовые основы, методики, юридическая техника и практикум) [Текст]/С. А. Балашенко [и др.] ; под общ. ред. С. А. Балашенко. – Минск : ГИУСТ БГУ, 2008. – 408 с

² Steven Hartwell. Six Easy Pieces: Teaching Experientially//San Diego Law Review. – 2004. – Vol. 41. – pgs. 1011, 1013.

³ Anthone G. Amsterdam. Clinical Legal Education – A 21st Century Perspective//Journal of Legal Education. – 1984. – Vol. 34. – pg. 612.

— to provide students with the opportunity to develop their professional skills and abilities;

— to provide an opportunity for understanding of the legal system functioning and consideration of issues concerning its capabilities and limitations¹.

The research allowed us to divide practice in legal colleges of the USA into:

I. Practice, which is based on simulation. Students participate in role-playing games where they perform a variety of professional roles and solve professional tasks in hypothetical situations.

II. Practice of in-house clinics where students represent clients or perform other professional roles under the guidance of faculty members.

III. Internship where students represent clients or perform other professional roles, observe or help practicing lawyers, judges in their work.

IV. “Pro-bono” practice (free provision of legal services to people with low-income).

Let us consider the practice of in-house legal clinics more detail.

Based on the analysis of scientific and pedagogical works of Kenneth R. Kreiling² and William M. Sullivan³ it has been established that internal clinic is a course in which an important part of learning is based on representing clients by students or doing other professional roles under the guidance of faculty members.

Thus, internal clinics provide students with a wide range of activities so they take responsibility for those cases that they will perform. In some clinics, students perform the role of “lead lawyer”; others are responsible for the narrower task of complex affairs which are performed by the academic staff of the college.

Scientists argue that it is impossible to describe all knowledge and skills which students could master while representing the interests of the real client. Potentially it includes everything they need for a successful legal practice. Scientists say that, first of all, students need to master skills of legal practice, protocols of various types of legal activity, relationships, rules of professional behavior and limitations as are prescribed for their freedom when performing actions as a lawyer.

Much attention in internal clinics is paid to the opportunities of students to provide legal services to poor people, thus forming very positive professional skills such as compassion, politeness and dedication which are necessary in future legal profession.

¹ Roy T. Stuckey. *Best Practices for Legal Education: A Vision and a Road Map*. – Clinical Legal Education Association, 2007. – P. 287.

² Kenneth R. Kreiling. *Clinical Education and Lawyer Competency: The Process of Learning to Learn From Experience Through Properly Structured Clinical Supervision*//MDL. Review. – 1981. – Vol. 40. – pg. 305.

³ William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman. *Educating Lawyers: Preparation for the Profession of Law*. – San Francisco, published by Jossey – Bass, 2007. – P. 245.

Thus, students, as lawyers, check out their intellectual and analytical skills they have learned in classes, and find out how well they are able to apply practical trial to the situation they are faced.

Based on analysis of American Scientists' works of M. Barry, S. Lubet, R. Stuckey the following requirements for in-house clinical courses were traced.

1. The in-house clinical courses should provide a model of law office management in which appropriate case and office management systems are utilized, they should have clear, written protocols for monitoring the quality of law practice. Clients' opinions about their satisfaction with the quality of representation should be systematically canvassed. Besides surveys about the quality of in-house clinics' law practice, including professionalism, should be conducted periodically

2. The school should provide adequate malpractice insurance for students and faculty in the in-house clinical program. Students and their clients should not be put at risk of financial loss if malpractice is committed by a student or faculty member that results in harm to a client, opposing party, or someone else. Therefore, the school should provide malpractice insurance for students and faculty.

3. In order to protect clients' interests, clinical faculty should approve in advance and monitor student activities. Besides the clinical faculty should review all correspondence and legal documents prepared by students, observe meetings with clients or opposing parties or counsel, monitor students' adherence to office and practice management protocols, and attend all court appearances by students.

4. The college should balance student autonomy with client protection.

The clinical faculty appropriately balances the goal of giving students independence and responsibility with the goal of protecting clients' interests.

5. In-house clinical courses should include classroom components that help accomplish the educational goals of the courses. A clinical seminar or classroom component reinforces and advances the shared learning experience of students enrolled in an in-house clinic. The classroom component can be used to transmit knowledge and information necessary for competent representation of the population of clients served by the clinic, for "grand rounds" sharing of learning experiences, for group case planning exercises, for simulations directly related to the actual case experiences of students, for group discussion on perspectives of lawyering in context, for providing a forum for outside professionals to share their perspectives on legal concerns, and for other matters directly connected to the advancement of students' professional development¹.

6. The school should provide adequate facilities, equipment, and staffing for in-house clinics. In-house clinics are responsible for the competent representation of

¹ Report of the Committee on the Future of the In-House Clinic//Journal of Legal Education. – 1992. – Vol. 42. – pg. 569.

actual clients by law students working under the supervision of qualified instructors. The facilities, equipment, and staffing must be appropriate for providing both competent representation to clients and meaningful instruction to students. This means that clinical offices should include reception areas, confidential client interviewing space, appropriate work areas for students, adequate room for professional staff and faculty, supportive staff services, means for investigation, research resources, classrooms, and multimedia technology¹.

7. In-house clinics should respond to the legal needs of the community.

Providing access to justice and seeking justice are two of the most important values of the legal profession. One way in which a law school can impart these values to students is by establishing and supporting in-house clinics that respond to the legal service needs of the communities in which they operate. Scientists say that the in-house clinics educational goals are best achieved when they perform the mission of social justice and students are well aware of the obligation to provide legal services to low-income clients².

For example, at Cornell College of Law, to acquire skills of a practicing lawyer students log into the internal legal clinics, where they represent clients in actual practice under the guidance of experienced teachers who work closely with students and help them to become professionals. Students apply practical skills acquired during the capture of clinical disciplines by which they are involved in the following activities: interviews, the actual investigation of doing cases, the development of legal theories and themes, drafting various legal documents, resolving ethical issues, participating in court hearings.

In some clinics, students represent clients in administrative courts, which require them skills for pre-trial and trial processes. Almost in all clinics students participate in interviewing and counseling clients, legal research and document preparation. Some students take part in debates of the appellate courts. But whatever task they perform, all the clinical experience of students is unique, which is acquired during the performance of legal activity on behalf of real clients and through observation of the effect of law and legal institutions to clients.

It is necessary to consider the role of teachers in the internal legal clinic. They usually have more than 20 years of teaching and advocacy experience; have excellent teaching skills to provide students with assistance for action as a lawyer and career advancement in the legal profession. Teachers of internal clinics seek to help students to identify their personal and professional strengths and weaknesses, the limits of personal knowledge and skills and to develop strategies to improve the professional activity³.

¹ Report of the Committee on the Future of the In-House Clinic//Journal of Legal Education. – 1992. – Vol. 42. – pg. 550; 197.

² Ibid. – pg. 515.

³ Kenneth Seeskin. Dialogue and Discovery: A Study in Socratic Method. – USA, State University of New York Press, 1987. – P. 179.

Teachers regularly interact with students both in scheduled meetings, and during many conversations.

Thus, seminars, individual and group meetings between teachers and students give the opportunity to discuss these issues that are very important for future legal professionals:

- The role of a lawyer in the legal system.
- The role of the legal system in the society.
- Factors that affect a lawyer: professional responsibility, the interests of a client, ethical and moral beliefs of a lawyer and others.
- Influence of the laws and legal procedures on client's life.
- Influence of the life reality on the clients' understanding of the law and their interaction with the law.

During these discussions, students improve their analytical skills and critical thinking skills and participate in creative problem solving of cases in which they are occurred.

It is worth noting that one of the important tasks of the legal clinics is acquiring skills for lifelong learning¹.

It should be noted that whatever task they perform, all the clinical experience of students is extremely useful for future legal professionals.

Thus, we can say that from the educational point of view, clinical legal education promotes a realistic prospect of a comprehensive legal education and formation of a professionally oriented personality.