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Changing With the Times: The KU Elder Law Clinic and the Kansas Elder Law Network

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Early in 1995, Dean Michael Hoeflich approached Kansas Legal Services, Inc. (KLS) with a proposal to create a new clinical program at the University of Kansas School of Law serving senior citizens. He made the logical choice: KLS has provided legal assistance statewide to senior Kansans through its Senior Citizen Law Project attorneys since 1982. As early as 1993, Professor A. Kimberley Dayton of the School of Law and two budding elder lawyers, then-law students Gail Edson and Melissa Rodriguez, had recognized the need for specialized training in elder law and provided the original impetus for what is now the KU Elder Law Clinic. The beauty of Dean Hoeflich's brainchild, however, was in bringing together KLS's proven commitment and expertise in elder law, the School of Law's obligation to provide opportunities for professional development to its students, and the Dean's personal mission to put KU in the vanguard of technology-assisted legal research for students, practicing lawyers, and laypeople.

This ambitious and exciting program began in the fall 1995 semester with seven pioneering students, a small number which belied the diversity of experience they brought to their work. Teamed with one of three legal aid lawyers in KLS's Topeka, Olathe, and Kansas City, Kansas offices, the students plunged into their work, not as passive observers, but as active problem-solvers for their clients. Student externs make house calls to homebound, handicapped, and institutionalized clients, and handle client interviews in an office setting. Under Rule 709 of the Supreme Court of Kansas, externs are involved

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in counseling, negotiation, administrative hearings, and court appearances on behalf of elderly clients. Each student is expected to devote a minimum of eight hours per week to caseloads in his or her assigned field office.

KLS's Senior Citizen Law Project attorneys and the Clinic externs working with them advise and represent clients, aged 60 or over, in four broad categories of civil cases: Access to health care, including Medicare, Medicaid, long-term nursing home care, spousal impoverishment, physical abuse and neglect, and home care; income maintenance, including Social Security retirement and disability benefits, financial exploitation, and collection defense; housing matters, including landlord-tenant disputes, mortgage foreclosure, Fair Housing Act claims, and public housing cases; and consumer problems, including repossession, Fair Debt Collection Practices Act claims, Truth in Lending claims, and contracts. With such a broad variety of case types from which to choose, Clinic students learn substantive law and procedure in the course of their representation. Moreover, students hone their writing skills as they draft pleadings, agreements, letters, and memoranda.

Plainly, the KU Elder Law Clinic is not for the faint of heart. Exposure to casework is intended to be demanding and thought-provoking, but it produces the added benefit of empowerment. No longer passive observers, Clinic students test their professional aspirations and identity in the crucible of real clients and real cases. While learning and helping themselves, students help others, many of whom would otherwise go without legal assistance. If the experience of the first semester is any indication, clients lucky enough to retain student externs in the Clinic receive high quality assistance indeed.

Clinic students participate in two other components of study: In the classroom, I instruct them in both substantive law and professional skills. Reading requirements are not voluminous, but are designed to acquaint students with the wide range of substantive law issues most often encountered in elder law, as well as to get students thinking about the messier and more uncertain world of law practice. The class meets for one hour weekly in an informal combination of lecture and class discussion. Some examples of topics covered in the fall 1995 semester are competency and its impact on the lawyer-client relationship, Medicaid eligibility for nursing home care, and elder abuse, neglect, and exploitation. No examinations or written work in addition to casework is required, with the exception of each student's academic journal in which he or she records fieldwork experiences and reflections in preparation for weekly meetings to discuss the student's progress. The combination of classwork and casework earns three credit hours per

semester, and students are expected to enroll in the course for both fall and spring.

The third, and most innovative, component of the Elder Law Clinic is required participation in development of the Kansas Elder Law Network (KELN) under the supervision of Professor Dayton. KELN is a World Wide Web site designed and maintained by Professor Dayton. Its mission is to provide nationwide electronic access, via the World Wide Web, to primary and secondary materials pertaining to the legal practice specialty known as "elder law." Although KELN is maintained primarily as a public service to Kansas senior citizens and their advocates, its legal and quasi-legal databases are national in scope. KELN aims not to duplicate the content of other aging-related sites, but rather to serve as a repository for legal and other materials relevant to the practice of elder law. The Web address (or "url") of the KELN home page is:

http://ukanaix.cc.ukans.edu/~webmom/keln_main.html.¹

The home page links to various sections of the KELN site, including its topical list of databases and a guide to using the site.

KELN's databases, which are currently under construction, will ultimately include primary and secondary materials relating to elder law, annotated hypertext bibliographies on a variety of topics, and downloadable forms. In addition, KELN already maintains regularly updated topical indexes to other Web sites of particular interest to elder law practitioners, gerontologists, and senior citizens. KELN's organizational scheme distinguishes between resources housed at KELN's Web server and resources maintained at other Web sites. All KELN internal databases may be accessed starting from the Topical Index to KELN's Legal Databases, currently located at the url address:

http://ukanaix.cc.ukans.edu/~webmom/keln_index.html.

Within the next few months, KELN will be fully searchable by keyword.

Because KELN is being developed as a public service, its resources are free, and may be downloaded for personal, non-profit, and educational use. Unless a KELN document is in the public domain, however, it may not be published on the Web or elsewhere without the express permission of the KELN administrator. Some materials stored in KELN are the property of and copyrighted by individuals not affiliated with KELN. Respecting those documents, permission to republish must be obtained from the copyright owner. The hypertext format of all KELN documents, including materials whose content is in

1. The KELN will be moving to a new location sometime in the spring of 1996. The new site will be accessible from KELN's current address.

the public domain, is protected by copyright law. Practitioners and others are encouraged to submit materials for inclusion in KELN's databases.

Substantive areas in which KELN will archive materials include advance directives, health care decisionmaking, and living wills; consumers' rights; financial and physical abuse of the elderly; employment and retirement issues; estate planning and wills; estate recovery; ethical issues; guardianship, conservatorship, and alternatives; housing; long term care insurance, and reverse mortgages; nursing homes and the rights of residents; and public benefits, including Medicare, Medicaid, Social Security, SSI, and Veterans' Benefits materials. In addition, KELN will house a set of annotated bibliographies on a variety of topics pertaining to the practice of elder law. These bibliographies, prepared by third-year law students enrolled in the Clinic, will enable practitioners, scholars, and laypersons to locate easily print and Web-based research materials in both established and developing areas of elder law.

The once-controversial proposition that law schools should offer courses in professional skills associated with practice is now well-accepted. Indeed, the recent ABA Task Force Report on Legal Education and Professional Development (the MacCrate report) urges law schools to assume an even greater role in imparting professional skills and values to their students. In the context of changing demographics, specifically the graying of the Baby Boomers, elder law practice will continue to expand well into the next century, and it is axiomatic that computers are indispensable to law practice as resources on the Internet expand. The KU Elder Law Clinic and KELN arise in the confluence of these three important trends, right where the University of Kansas School of Law belongs.