

2021-2022

**National Health Law
Moot Court Competition**

OFFICIAL RULES

SPONSORS:

Southern Illinois University School of Law

and co-sponsors

American College of Legal Medicine

American Health Law Association

PART I. ORGANIZATION OF THE NATIONAL COMPETITION

The National Health Law Moot Court Competition (the "Competition") is an inter-law school appellate moot court competition sponsored by the Southern Illinois University School of Law ("Sponsor") along with co-sponsors the American College of Legal Medicine and the American Health Law Association. The purpose of the Competition is to develop the art of appellate advocacy and to encourage research in the growing field of health law and ethics.

PART II. THE RULES

Teams

Rule 1. Number and Composition of Teams.

Up to 28 teams from ABA-accredited law schools or law schools currently seeking ABA accreditation may participate in the Competition. Each participating school may enter one or two teams depending on available space, on a first come basis. If the Competition is oversubscribed, the Sponsor reserves the right to place additional teams on a wait list or otherwise adjust participation. Each team shall be composed of two or three students, all of whom must be full-time day, night or weekend program law students currently enrolled in a J.D. program at the time of the Competition.

Rule 2. Substitution or Dropping of Team Members.

The team that attends the oral arguments shall be exactly the same students who prepared the brief. Prior to submission of briefs, team members should be substituted or dropped for a good faith reason only, such as an individual's inability to meet the requirements of these rules. If any students are substituted or dropped after the problem is released, the team shall inform the Sponsor by email and set forth the good faith reason for the substitution or drop. There shall be no substitution or dropping of team members after submission of briefs except upon written consent of the Sponsor. Violating this rule will be grounds for disqualification.

Briefs

Rule 3. General.

For schools entering only one team, the team may elect to serve as counsel for petitioner or respondent for the purposes of preparing its brief. If a school enters two teams as provided by Rule 1, one team shall represent petitioner and the other respondent for the purposes of preparing briefs.

Rule 4. Form and Length of Briefs.

(a) Format and Length of Brief.

- (i) The brief shall comply with Rules 24.1 and 33.2 of the Supreme Court of the United States as to format and content, except as otherwise provided in these Rules or the Record on Appeal. Both Petitioner and Respondent's briefs shall contain all of the items Rule 24.1 requires in a Petitioner's brief, except that neither party's brief need contain a formal statement of jurisdiction or list of parties. Citation form should be in compliance with the Twenty-First Edition of the Uniform System of Citation.
- (ii) No information which tends to identify the school or the contestants other than the number assigned by the Sponsor may appear at any place in the brief or on the cover. The contestant's names or school must not appear anywhere in the brief.
- (iii) Appendices may be used to recite the text of statutes, constitutional provisions, and regulations that are too long to include in the constitutional and statutory provisions section of the brief, and other materials that are not generally available. No appendices to the brief may exceed 20 total combined pages. Do not include the Record on Appeal in the appendix.
- (iv) Exclusive of the questions presented, table of contents, table of authorities, opinions below, constitutional and statutory provisions, and appendices, the body of the brief (including the statement of the case, summary of argument, argument and conclusion) may not exceed 13,000 words in length. Footnotes and headings will be included in the word count.
- (v) The brief must have one inch margins on all sides with double spacing between each line of text except for footnotes which may be single spaced. Page numbers should be included in a footer in the bottom center of the page, which can fall within the one inch margin.
- (vi) The cover of the brief should be light blue for Petitioner and light red for Respondent. The cover's text should be clearly readable. Sloppy brief assembly may result in a point penalty.

(b) Certification.

Each team submitting a brief in the Competition shall certify that its brief has been prepared in accordance with these rules and that it represents the work product solely of such team's members. The certification form is attached to these Rules as Appendix A. ***Team members must each individually sign the certification form by name, either by hand or an electronic pen that produces a digital image of your signature. A typed name will not be sufficient.*** Do not insert the certification into the brief.

Rule 5. Service of Briefs.

(a) Service on the Sponsor by email.

Each team must serve upon the Sponsor via email as set out in subsection (c) below an electronic copy of their brief along with a copy of their original brief certification form (Rule 4(b)), in separate files. The electronic brief copy will be used to determine compliance with Rule 4(a) and will be provided to the brief scoring judges. The electronic copy will also be posted on the competition website in lieu of serving competing teams. The electronic copy must be in Microsoft Word, version 6.0 or higher, and must be in one complete document file. No other formats will be accepted.

(b) Timing and Format for Electronic Service.

The email attaching the electronic copies of the brief and the brief certificate should be sent to Kristy White at kristyw@siu.edu **so that it is received no later than 11:59 p.m. central time, September 16, 2021.** The subject line of the email must contain the team's designated number, and the body of the email must contain the name of the law school and team members' names. No other text should be included in either the subject line or body of the email. The first email received from a team will be used to determine compliance with this rule. Incomplete or late submissions will be assessed a five point penalty against the final brief score.

Rule 6. Revision of Briefs.

A team may not revise or supplement its brief after it has been served upon the Sponsor.

Rule 7. Scoring of Briefs; Penalties.

- (a) Scoring Committee. A committee appointed by the Sponsor (the "Scoring Committee") will score the briefs. The brief score will be used in determining the result of each and every argument in accordance with Rule 11 as well as the winner of the Best Brief and Second Place Brief. Any matter serving to identify a

team or its members will be excised by the Sponsor prior to submission to the Scoring Committee and a point penalty assessed.

- (b) Penalties. The Sponsor may assess such penalties, including disqualification, as it deems reasonable and appropriate in its sole discretion for failure to comply with these Rules. All briefs will be subject to uniform point penalties for each type of violation, which may be levied in whole or fractional points. The penalty scale for violations that do not have a set penalty in the rule will be in proportion with the overall range of scores of the briefs being graded.
- (c) Brief Ballots and Median Substantive Score. The official brief ballots are attached as Appendices B and C. Each member of the Scoring Committee who is scoring the substantive portions of the briefs (Appendix C) will set a median of 65 out of 85 points for the briefs that member is scoring. There is no mandatory median for the formal aspects of the briefs (Appendix B), worth 15 points. The total combined points available is 100 points.

Rule 8. Faculty or Other Assistance.

- (a) General. No team may receive specific assistance in the writing of its brief or the preparation of its oral argument from anyone not a member of that team, including faculty or fellow students. The rule allows for general discussion of the legal issues raised by the record at any time and judging and general critique of practice rounds after the brief has been submitted. In no case should anyone other than team members write or edit the brief or script any part of the oral argument.
- (b) If the problem as announced is based directly on an actual case, no participants may procure a copy of any pleadings or papers actually filed in any trial or appeal of that case. Contact with the actual litigants or their attorney is prohibited and constitutes grounds for disqualification.
- (c) Purpose. In interpreting the assistance rule, it should be emphasized that the purpose of the Competition is to develop the art of appellate advocacy through the participants' own work.

Oral Arguments

Rule 9. Time and Place.

Oral arguments will take place at Southern Illinois University in Carbondale, Illinois on November 5 and 6, 2021.

Rule 10. Participants in Argument.

Any two members of a team may participate in any argument, but two team members (and only two) must participate in each argument. Each member of a team must argue at least once during the two preliminary rounds.

Rule 11. Weight of Briefs and Arguments.

In all cases the scores of the competing teams will be computed by weighing the oral arguments sixty percent (60%) and the brief forty percent (40%). The oral argument score will be determined by a panel of judges without knowledge of the brief grade, and will be arithmetically weighted and combined with the brief grade by the Sponsor as described in Rule 12(b)(ii).

Rule 12. Number of Arguments; Elimination; Pairings.

- (a) Number of Arguments. The Competition will be structured to afford each competing team two (2) arguments (preliminary rounds) prior to the elimination of any team. No team shall argue the same side of the case in the first two preliminary rounds. No team will argue against any other team representing the same school in the two preliminary rounds nor will the same two teams be paired together in the two preliminary rounds.
- (b) Pairings.
 - (i) Preliminary rounds. The Sponsor will determine by random assignment pairings for the preliminary rounds, including assignments of the side of the case to be argued, except for adjustments necessary to comply with Rule 12(a). The Sponsor will inform all contestants in advance of the identity of the other teams against which they will argue.
 - (ii) Elimination rounds. After the preliminary rounds, the top eight (8) teams will advance and be seeded based on their win-loss record and aggregate point differential, in that order.¹ The teams with the highest win-loss record and highest aggregate point differentials will be seeded higher. “Aggregate point differential” will be calculated as follows: For each team, the raw oral round scores for each team member will be averaged and added to the other team member’s averaged oral score, and that total will be divided by 2 and multiplied by .6 for the adjusted oral score. The team’s average brief score will be multiplied by .4 and added to the

¹ The Committee reserves the right at the end of the preliminary rounds to hold an additional round of no less than twelve and no more than sixteen teams, depending on the size of the Competition and availability of judges. This round will also be seeded and only the weighted brief and oral scores in this additional round will be considered to determine further advancement. The competition will follow Rule 12(b)(iv) from this round forward.

adjusted oral score, for the team's total round score. The difference between the two teams' total round score will be the point differential for that round (a positive number for the winning team and a negative number for the losing team). The point differential for each of a team's rounds will be added together to make the aggregate point differential.² Scores will be calculated to two decimal places (*i.e.*, 95.33).

- (iii) If teams are tied at the end of the preliminary rounds, for purposes of both advancement and seeding, ties will be broken in favor of the team with highest aggregate point differential over its opponents in the two preliminary rounds. If two teams have the same aggregate point differential over their opponents, the tie will be broken in favor of the team having the higher brief score. If there is still a tie, the advancing team will be decided by a coin toss.
- (iv) After the seeding described in (ii) above, advancing teams will be placed into one of two brackets and will advance through the bracket to which they were originally assigned until one team from each bracket reaches the final round. No adjustments will be made for teams from the same school.
- (v) Sides in the elimination rounds will be determined by a coin toss, with the higher seeded team calling the toss and the winning team picking their preferred side.

Rule 13. Time for Arguments.

- (a) Each team will have 30 minutes total to make its presentation. No advocate may argue for less than twelve or more than eighteen minutes, but teams may otherwise allocate the time between advocates as the team sees fit. Teams must inform their bailiff of the number of minutes each advocate wishes to speak.
- (b) The team representing petitioner may reserve up to 5 minutes for rebuttal, but must indicate its desire to do so to the bailiff before the beginning of the round. In order to reserve rebuttal, the team representing petitioner must also verbally request reservation of rebuttal time at the beginning of its oral argument from the court. Judges will be instructed they may refuse rebuttal to any team that fails to comply with this rule. Only one member of the petitioner team may argue on rebuttal.

² Aggregate point differentials are computed in the manner illustrated by the following example: If team A defeated its first round opponent by a total round score of 80-75 and lost its second round argument by a total round score of 78-80, its aggregate point differential for the two rounds is +3 points (*i.e.*, the net of the +5 point difference in its first argument and the -2 point difference in its second argument).

- (c) The bailiff will hold up time cards when 5, 2 and 1 minute(s) remain of each speaker's time, and a card indicating "STOP" when time has expired for each speaker. When the bailiff calls time, the speaker must inform the court that time has expired ("Your Honor, I see my time has expired.") and must refrain from making any further statements or requesting any further time. The court may permit a speaker additional time on its own motion.

Rule 14. Challenges.

Any challenges to the proceedings during a round, such as timing errors and failure to request rebuttal, must be brought to the attention of the Chief Justice in the round at the first opportunity, which in most cases means at a time when the error can be corrected either by adjusting the round procedure or taking it into account in the judges' scoring. The Chief Justice presiding in a round shall determine any procedural challenges raised regarding that round. The judges will have discretion to consider any procedural issues in their scores. Once the judges in a round have submitted their scores, there will be no further team challenges to the procedure of a round. Violations of any rules that may result in disqualification of a team may be raised with the Sponsor directly but must be made at the earliest possible moment.

Rule 15. Identification Prohibited.

All teams shall at all times refrain from identifying the school they represent to any judge participating in the Competition prior to or during any round in which such judge shall participate. Judges shall refrain from inquiring of the identity of the teams until the results of the round have been announced. Violation of this Rule will be grounds for disqualification in the discretion of the Sponsor.

Rule 16. Results; announcement of advancing teams.

Teams advancing after the preliminary rounds will be announced at the reception on Friday night. At announced times during the competition day, the Sponsor will provide teams with their oral round score sheets from the two preliminary rounds and their brief score. Teams will then have a brief time to calculate their win-loss record and differentials. At the reception, the Sponsor will announce for each team their win-loss record and differential, at which point a team representative will be asked to confirm the calculation. The win-loss record and differential will then be deemed official with no further potential for challenge of the calculation results. Any team that does not have a representative present will be deemed to have agreed with the Sponsor's calculation. Once all win-loss records and differentials have been confirmed, the Sponsor will announce the advancing teams and their seeding.

For each of the elimination rounds, teams will have a brief period to review the score sheets and confirm calculation of the winning team as announced at the competition. After that review period, there will be no further potential for challenge of the calculation results.

Rule 17. "Scouting" Prohibited.

No team member or faculty advisor for any team may observe any round not involving such team, until such team has been eliminated.

PART III. OTHER RULES

Rule 18. Awards.

The Competition will recognize the Best Preliminary Round Oral Advocate and Best Overall Oral Advocate with prizes. Best Preliminary Round Oral Advocate will be awarded to the individual advocate with the highest average oral scores at the end of the two preliminary rounds. All advocates who argue at least twice are eligible. The award will be announced at the reception on Friday night, along with the names of the second through fifth top scoring advocates. Best Overall Advocate will be awarded to the individual advocate with the highest average oral scores at the end of the Competition. All advocates who argue at least four times are eligible for this award. In case of a tie for either Best Oralist award, the Competition will recognize all tied advocates (to a hundredth of a point), who will share any monetary prizes.

The Competition will also recognize Champion, Runner-Up and Third Place Teams, Best Brief, and Second Place Brief at the final Awards Ceremony.

Rule 19. Recording and Photographing; Consent and License.

Video or audio recording by participants or spectators is prohibited. Flash photography may not be used during any rounds. The Sponsor may record and photograph participants at various times during the Competition, including the final round. A participant's decision to enter and participate in the competition constitutes consent to recording and photographing by the Sponsor. As a condition of participation, and for no monetary compensation, the participant grants the Sponsor the nonexclusive worldwide rights to reproduce, distribute, and sell any visual or audio material in connection with the participant's participation, in whole or in part, in any media, in a law-related publication, as part of a course book, or in any other publication published under the auspices of Sponsor and to license these rights to others. This consent also grants the Sponsor the right to use students' names, voices, and images in connection with published Competition materials.

Rule 20. Consent and License for Publication of Briefs

As a condition of participation, and for no monetary compensation, the participant grants the Sponsor the nonexclusive worldwide rights to reproduce, distribute, and sell the participant's written brief submitted in connection with the participant's participation, in whole or in part, in any media, in a law-related publication, as part of a course book, or in any other publication published under the auspices of Sponsor and to license these rights

to others. The participant shall, if asked, execute a specific consent or license if required by the Sponsor in order to publish the participant's brief. If the participant cannot be located or does not respond to a request from Sponsor to execute a specific consent and license within a reasonable time, the participant agrees that the Sponsor may provide consent and enter into a license agreement on participant's behalf.

Rule 21. Amendments and Interpretation of Rules.

In addition to the Rules herein set forth, the Sponsor may make any other rules and procedures deemed advisable. Participants will be advised promptly of any additions, amendments or corrections to these Rules. Failure to comply with the additional, amended or corrected rules and procedures may be grounds for disqualification, among other penalties.

Requests for the interpretation of these Rules or the record should be addressed in writing to the Sponsor. Interpretations issued by the Sponsor shall be final and binding on all competitors. Requests for interpretation should be sent to the Competition's administrative assistant, Kristy White, kristyw@siu.edu.

**SOUTHERN ILLINOIS UNIVERSITY SCHOOL OF LAW
NATIONAL HEALTH LAW MOOT COURT COMPETITION
LESAR LAW BUILDING
CARBONDALE, IL 62901
(618) 453-8299**

Below is a list of important dates and deadlines regarding submission of briefs, certification, service of notice, etc. for the Health Law Moot Court Competition.

| | |
|--|--------------------|
| PROBLEM AND RULES POSTED ELECTRONICALLY AT www.law.siu.edu/healthlawmootcourt | August 5, 2021 |
| ENTRY FEE AND COMPETITORS' NAMES DUE | September 2, 2021 |
| DEADLINE FOR WITHDRAWING WITHOUT PENALTY | September 2, 2021 |
| DEADLINE FOR SERVICE OF BRIEFS | September 16, 2021 |
| PRELIMINARY ROUNDS BEGIN | November 5, 2021 |
| COMPETITION ENDS | November 6, 2021 |

Appendix A: Team Certification

We hereby certify that the brief for _____ (team number) is the product solely of the undersigned, that the undersigned did not receive any assistance of any kind whatsoever in connection with the preparation of the brief other than as permitted by Rule 8 of the current Rules of the National Health Law Moot Court Competition.

(Team member's signature)

(Team member's signature)

(Team member's signature)

**Appendix B:
2021-2022 NATIONAL HEALTH LAW
MOOT COURT COMPETITION**

**OFFICIAL BRIEF BALLOT
(Formal Requirements)**

* * * *

Team Number: _____

Judge: _____

| | <u>Points Possible</u> | <u>Points Given</u> |
|---|------------------------|---------------------|
| I. Formal Requirements | | |
| A. <u>Cover of Brief</u> Is it correctly set up and is color correct? | (1) | _____ |
| B. <u>Table of Contents</u> Are the brief sections in the proper sequence? Does the brief contain all necessary parts? | (3) | _____ |
| C. <u>Table of Authorities and Citation Form</u> Is there a proper division of cases between federal and state? Is there a sensible division and arrangement of statutes and secondary sources? -- 1 Are citations to legal authorities correct? 0 or 1 error - 5 points; 2 or 3 errors - 4 points; 4 or 5 errors - 3 points; 6 or 7 errors - 2 points; 8 or 9 errors - 1 point; 10 or more errors - 0 points -- 5 | (6) | _____ |
| D. <u>Overall Appearance of Brief</u> Overall, does the brief appear neat and polished in terms of typing and physical presentation? If an Appendix is attached, is it in neat and polished form and does it contain appropriate materials? -- 3 Are there few, if any, typographical errors? -- 2 | (5) | _____ |
| TOTAL TECHNICAL SCORE | (15) | _____ |

**Appendix C:
2021-2022 NATIONAL HEALTH LAW
MOOT COURT COMPETITION
OFFICIAL BRIEF BALLOT
(Legal Analysis and Style)**

For guidance, please see Point Ranges explanation attached.

* * * *

Team Number: _____

Judge: _____

| | <u>Points Possible</u> | <u>Points Given</u> |
|---|------------------------|---------------------|
| I. Legal Analysis and Argument | | |
| A. Preliminary Matters | | |
| 1. Questions Presented | (3) | _____ |
| Are the issues phrased such that the answer naturally favors the party propounding them? Do they include the essential facts of case appropriately described? Or, do they merely copy and paste the certiorari questions from the problem, for which 0 points should be awarded? | | |
| 2. Statement of the Case; Statement of the Facts | (6) | _____ |
| Are the facts stated in a favorable way without leaving out material facts or being argumentative? Is the factual summary effective? — 4 Is the procedural history complete and clear? — 2 | | |
| 3. Summary of Arguments | (5) | _____ |
| Development, persuasiveness and conciseness. Does the summary condense the argument without merely restating the headings? | | |
| B. Structure and Substance of Analysis | | |
| 1. Argument Structure | (15) | _____ |
| Are the arguments organized in a clear and persuasive manner? Is the argument subdivided and do those subdivisions make logical sense in regard to their substance and their order? Do the arguments in each section flow logically, compelling a conclusion in the writer's favor? | | |

| | <u>Points Possible</u> | <u>Points Given</u> |
|---|----------------------------|-------------------------|
| 2. Issue Recognition | (10) | _____ |
| <p style="margin-left: 40px;">Does the argument include all the necessary issues? Are the subissues relevant, persuasive and comprehensive?</p> | | |
| 3. Persuasiveness of Headings and Text | (8) | _____ |
| <p style="margin-left: 40px;">Are the headings and text argumentative without being intellectually dishonest? Was the argumentative tone of both the headings and the text properly developed?</p> | | |
| 4. Use of Authority | (30) | _____ |
| <p style="margin-left: 40px;">Have the leading cases been used? Do the authorities support a sound legal analysis? Have relevant statutes and regulations been cited with important legislative history? Have persuasive secondary authorities been used? Does the brief show an excessive reliance on secondary authorities? — 10</p> <p style="margin-left: 40px;">Has the brief incorporated the facts of cited cases to inform and persuade the reader? Have the cases and authorities been used as effectively as possible? — 6</p> <p style="margin-left: 40px;">Has the brief distinguished cases or other authorities that are unfavorable to its position? — 6</p> <p style="margin-left: 40px;">Have strong, relevant policy arguments been made and developed appropriately? Are contrary policy arguments effectively dealt with? — 8</p> | | |
| II. Style | (8) | _____ |
| <p style="margin-left: 40px;">Is the brief clear and unambiguous? Has there been proper word choice by the writers? Does the brief look polished from re-drafting and re-writing? Are there grammar or typographical errors? Has there been an excessive use of quotations or cites? Has the brief effectively used the allotted space?</p> | | |
| TOTAL SUBSTANTIVE SCORE (See Point Ranges attached) | | _____ |
| | | (85) |

INSTRUCTIONS FOR JUDGES ON POINT RANGES FOR SUBSTANTIVE SCORING

In evaluating the SUBSTANTIVE legal analysis and style of the briefs, our rules provide that you must set **65 out of 85 total points as the median score** for the briefs you are evaluating. To help you create a reasonable point distribution, here is how we would expect the scores to range, given our experience with students who compete in national moot court competitions and the number of briefs you can expect to be scoring.

80-85 points (exceptional briefs that display great depth of research and analysis and great writing style):
10-20% (no more than one or two briefs)

70-79 points (strong briefs with solid research and analysis and good writing style):
25-40% (about two or three briefs)

60-69 points (average briefs that show mostly decent research, analysis and writing style but also have room for improvement in one or more of those categories):
25-40% (about three or four briefs—most should fall into this range)

50-59 points (below average briefs that needed significantly better research and writing or attention to structure, grammar, or punctuation):
20-30% (about two or three briefs)

Below 50 points (briefs with poor writing style and poor understanding of the legal argument):
0-20% (no more than one or two briefs)

The numbers are based on judges scoring between 10 & 12 briefs each. If you score more or fewer, please adjust the ranges accordingly.