More unwanteds ...

Long-haired freaky people (and others) still need not apply

TIM SULLIVAN is a third-year law student and a Daily Nebraskan columnist.

This whole thing just gets more absurd every day.

Three weeks ago, I told you about Thayne Glenn, the third-year law student who was denied permission to participate in the UNL College of Law Criminal Clinic program because his hair was too long.

Gary Lacey, the local county attorney, refused to let Thayne take the course. By his own admission, long-haired people simply weren't allowed.

But as I said, this whole situation just gets more absurd – and more incredible – every day. Let me tell you about another student who was denied permission to take the Criminal Clinic program this semester.

His name is Stacy L. Williams. He's another third-year law student. His story is a little different than Thayne's, but he was denied permission to participate in the Criminal Clinic this semester as well.

Stacy, unlike Thayne, did not participate in the lottery last fall for a place in the Criminal Clinic this spring. Instead, Stacy was approached by a law school professor after the lottery results were in and was told that spaces were available because not enough students had requested the course. The professor wanted to know if Stacy wanted in, and Stacy said yes.

Alicia Henderson, director of the UNL College of Law Criminal Clinic program, told Stacy he couldn't get in because of his employer. Stacy works as a law clerk for Herb Friedman.

Mr. Friedman is a local attorney who handles personal injury cases. To make it clearer for the purposes of this discussion, Mr. Friedman doesn't handle any *criminal* matters.

"I couldn't get in because of my employer," Stacy told me. "Something to do with the Child Advocacy Center," he said.

So now I'm curious. What was it about the Child Advocacy Center, Gary Lacey and Herb Friedman that would constitute reasonable grounds for denying Stacy Williams the educational opportunity of participating in the Criminal Clinic?

Now, I know there are rules governing the conduct of lawyers. For example, the Nebraska Supreme Court has adopted much of the Model Code of Professional Responsibility. These are the rules that govern the conduct and ethics of lawyers. (I know some of you find that a little hard to believe, but it really is true.) Some of those rules deal with conflicts of interest.

Now, there are two types of rules within the Nebraska Code of Professional Responsibility. One type is the EC, or ethical consideration. These are meant to be guideposts for lawyers; they are encouraged to aspire to the level of professional and ethical conduct the EC prescribes.

The other type is the DR, or disciplinary rule. These are the rules that the bar association and the Nebraska Supreme Court can discipline a lawyer for violating.

So why am I talking about EC's and DR's?

Well, Gary Lacey is claiming that he kept Stacy Williams out of Criminal Clinic this semester because of one of those rules.

Let me explain. Gary Lacey is on the Board of Directors of the Child Advocacy Center, a nonprofit corporation that contracts with the police, sheriff, *the county attorney's office* and others to investigate allegations of abuse involving children.

Herb Friedman had a bit of a run-in with Gary Lacey last year in a dispute involving the Child Advocacy Center.

Herb Friedman owned property in an area that had an owner's association. The Child Advocacy Center wanted to move into a house within that association's jurisdiction and near Friedman's property.

Friedman, on behalf of the owner's association, opposed the Child Advocacy Center being located there because, as he alleged, it violated local zoning ordinances. The matter was never litigated, though, and Friedman and Lacey resolved their dispute without any legal action whatsoever.

Now Lacey claimed to me that the reason Stacy Williams was denied permission to take Criminal Clinic was because there were "ongoing negotiations with Mr. Friedman concerning complaints he had regarding the way the advocacy center was being refurbished," and that "the potential for litigation was a possibility."

I also spoke with Friedman about the situation. Mr. Friedman said that the owner's association opposed the Child Advocacy Center because it violated zoning ordinances.

As to Stacy Williams' situation, Friedman said, "I didn't know Lacey was upset about it until Stacy came to me. ... I didn't realize that he'd be taking that personal, but if he did, he did."

I didn't think there appeared to be any conflict which would violate the Code of Professional Responsibility, and asked Herb Friedman if he agreed with me. He said that yes, he agreed with me. His office does not handle criminal cases and he doesn't understand how there could be a conflict.

Well, now. This sounds like a *private* dispute between Gary Lacey and Herb Friedman to me. And Stacy Williams suffered the consequences by being denied permission to take the Criminal Clinic course.

The applicable rules found in the Nebraska Code of Professional Responsibility are not supportive of Gary Lacey's position at all. Not one iota.

The applicable rule can be found at DR 5-109. This is the disciplinary rule that addresses conflicts of interest as to support personnel of a law firm. "Law clerks" are included in the definition of support personnel for the purposes of the rule.

First of all, The Child Advocacy Center is not a client of the County Attorney's Office. Second, even if it was, Stacy Williams may or may not have acquired confidential information regarding the owner's association. He was never asked or given the opportunity to demonstrate otherwise.

Let's face it, folks. It looks like Gary Lacey was angry with Herb Friedman for opposing him over the zoning of the Child Advocacy Center. So it seems Stacy Williams was denied a *public* educational opportunity because of a *private* dispute between Gary Lacey and Herb Friedman.

And don't forget about Thayne Glenn.

Thayne Glenn will give the University of Nebraska College of Law until the end of month to do something about the discrimination against him on the basis of the length of his hair. After that, the gloves come off and the fight in the courtroom begins.

On Monday, the law school held a faculty meeting. Myself, Thayne Glenn, Paul Wess, a first-year law student, and Ieva Augstums, a Daily Nebraskan senior staff writer, attended the portion of the faculty meeting during which the issue of Thayne's hair was discussed.

Professor John Snowden was the first to speak. He wanted to know the story behind the "other" student who was denied permission to take the course. Well, now he knows.

Professor John Lenich said he supported Gary Lacey's decision and that the law school shouldn't do anything to jeopardize the program.

Professor Steven Willborn, who specializes in employment discrimination, moved to adjourn the meeting on the grounds that the faculty lacked sufficient information to take any of the actions proposed. That motion carried the day.

Well, here's some more information.

It seems to me that Gary Lacey and the College of Law, through its Criminal Clinic Director Alicia Henderson, discriminates against students for other than legitimate reasons.

It strikes me that if you're a long-haired freaky person, or if your boss had a run-in with Gary Lacey, you'll be denied an educational opportunity.

Chancellor James Moeser told me he does not plan to take any action because the "faculty has not really come to clear determination on the issue."

Dennis Keefe, Lancaster County public defender, said that if hair length were an issue, he would "have to eliminate half of the people I've hired over the years as law clerks."

Sen. Ernie Chambers told me, "I'm upset that the law school won't get out of that program."

I'm with you, Ernie.

Suicidal tendencies

Death should not be ruled out as final option for those in severe physical, psychological pain

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To be or not to be?

It is a decision each of us faces every day, whether we know it or not. Fortunately, for the majority of us, health and happiness render the question rhetorical.

But for those suffering from physical or mental anguish, the decision is as legitimate as their pain. Indeed, for many the question offers the only lucid foothold in the excruciating maelstrom that is their existence.

However, the solutions to their problems are not nearly as distinct, falling, as they must, under the jurisdiction of the law. Although the legality of suicide is questionable, physician-assisted suicide has often – and arbitrarily – been considered a crime.

This is a crime in itself. The solution to the plight of those suffering from terminal pain or severe depression should be carefully regulated physician-assisted suicide – death should never be deemed a panacea, but it also should never be ruled out as the final option.

Unfortunately, the law of the land has consistently opposed this option and, thus, effectively made the Hippocratic oath, the creed defining the obligations of those in the medical profession, ineffective.

For how is a doctor to compromise "the good of the sick" with the obligation to "perform no operation, for a criminal purpose, even if solicited"?

Like any other medical treatment, death should not be ruled out as a "cure" and must be a matter of careful prognosis.

The frightening extreme to be avoided if physician-assisted suicide is legalized is the sort of unrestrained euthanasia found in the Netherlands.

Euthanasia is defined as causing death painlessly so as to end suffering and is typically performed without the consent of the sufferer; this is a concept far removed from the ideal of carefully regulated assistance.

While physician-assisted suicide in the Netherlands began with seemingly good intentions in the early 1970s, standards have gradually been compromised by doctors and, subsequently, the courts.

Babies born with Down's syndrome and spina bifida are now routinely euthanized, and comatose patients have sometimes been put to death without individual or familial consent.

In 1990, Dutch doctors were involved in nearly 10 percent of deaths in the country, half of which were classified "involuntary euthanasia" in which no consent was given by the patient.

American physicians have tended toward more constraint, standing by medicinal science to ease suffering. For while the American Medical Association condemns physician-assisted suicide, it also stands by this statement:

"It is ethical for physicians to provide effective pain medication even if the medication may have the side effect of suppressing respiration and hastening death."

If severely depressed or terminally ill patients request immediate death rather than Thorazine- or morphine-induced stupor, how can they be denied?

This is not to say that assisted suicide should never be denied.

Considering that the most common justification for suicide is not terminal illness or intense physical pain, but severe depression, the regulation of physician assistance should involve exhaustive psychological evaluation.

The majority of people who kill themselves suffer from mental illness that often goes undiagnosed and untreated. Indeed, suicide is a cry for help that goes unanswered if successful.

But if assisted suicide were presented as a legal option, perhaps those who suffer from suicidal tendencies would seek medical attention rather than carrying the act out themselves.

Opponents of physician-assisted suicide would also point to Hippocratic obligation for support on the basis of the following words: "exercise your art solely for the cure of your patients."

This is certainly ideal – patients who choose to die should be well aware of their chances and options and be offered the best care psychiatric medicine has to offer.

And above all, they should maintain their unalienable right to choose between life and death.

St. Augustine branded suicide a crime in the fourth century, and our 20th-century society has rendered it a taboo, offering its many victims compassion rather than damnation.

Such mercy should prescribe offering relief to those in pain, but it is more acceptable to pity those who needed help and, thus, ignore those who need help.

Pain and hopelessness are quite debilitating, and their victims often do need help to bring about a solution. And if a victim has faith in something better after death, saving her dignity becomes more important than saving her life.

Bob Ohlrich of Deshler thought so, and he took a .22-caliber pistol and the law into his own hands.

On Oct. 27, 1998, Ohlrich killed his wife of 56 years, who had been diagnosed with colon cancer in May of the same year. He then attempted to turn the gun on himself. The pistol malfunctioned, and Ohlrich now faces manslaughter charges, up to 20 years in prison and a $25,000 fine.

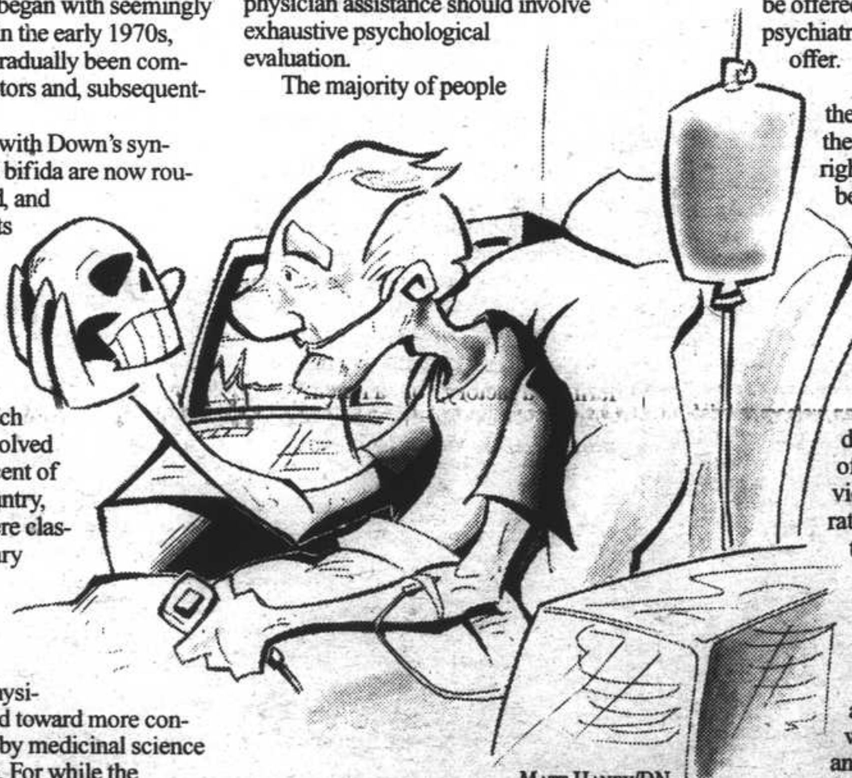
An autopsy revealed that the cancer that had often caused Phyllis Ohlrich more pain than she could stand was no longer present at the time of her death. But whether her cancer was cured or simply in remission is irrelevant – Bob Ohlrich saw his wife in pain and acted to end it.

Ohlrich left suicide notes, and his intention to join his wife seems sincere. Of course, the suicide notes also prove premeditation, and a charge of first-degree murder would seem warranted; indeed, this was the initial charge until Ohlrich pleaded no contest to manslaughter.

"To me, time don't mean anything whether I'm in jail or not," said Ohlrich, who is 76.

So the system will put this old man in prison and likely put him on suicide watch. And maybe after a few years of rehabilitation he will have learned his lesson, although I'm not sure what that lesson would be.

Compassion dictated the system offer Ohlrich a lesser sentence, but compassion should have offered both Ohlrichs a better option.



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