

Health Law 2132 (Fall 2010)

Schulich School of Law

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Class Time/Location: Tuesdays, 9:00 a.m. – 10:30 a.m., in Room 204
Fridays, 9:30 a.m. – 11:00 a.m., in Room 204

Office Hours: Tuesdays, 12:00 p.m. – 1:30 p.m., but feel free to drop by my office anytime or to make an appointment

1) Course Description

This *three-credit* course is designed to expose students to a wide variety of legal issues that arise in the field of Health Law. It introduces students to the health care system and relevant laws governing health care delivery. Topics covered include: regulation of “traditional” and “alternative” health care professionals; consent to treatment; confidentiality of health information; minors and health care; public health law; regulation of human biomedical research; mental health law; genetics and the law; and end of life care.

This course surveys a wide variety of topics in the area of Health Law within a short timeframe. **Students are advised that in-depth coverage of the topics will not be undertaken.**

2) Prerequisites

There are no upper-year course prerequisites. However, this course builds on the basic principles and concepts covered in the Law School’s compulsory first-year curriculum (e.g., Tort Law and Damage Compensation; Criminal Law; and Fundamentals of Public Law). Therefore, it is assumed that students are familiar with these principles and concepts.

3) Course Materials

The following constitute required reading:

1. Downie J., Caulfield T. & Flood C., *Canadian Health Law and Policy*, **3rd ed.** (Markham, Ont.: Butterworths Canada Ltd., 2007) [hereinafter, “Course Text”];
2. Health Law 2132.03 Supplement (Fall 2010) [hereinafter, “Course Supplement”];
and

3. Class Handouts (to be supplied, free of charge, throughout the course).

Students are also responsible for all information related to the topics covered in this course which arises during class lectures/discussion, regardless of whether this information is addressed in the required reading. Students who are absent from a lecture should ensure that they obtain adequate information regarding the content of the lecture from a classmate.

4) Evaluation

Examination

Students will be evaluated on the basis of a written examination that will constitute 100% (or 60% for those students who exercise the minor paper option described below) of their final grade for the course. The examination is currently tentatively scheduled to take place on **Tuesday, December 14, 2010, at 9:30 a.m.**

Students will be permitted to bring the following material into the examination:

1. the Course Text;
2. the Course Supplement; and
3. any Class Handouts that Professor Hadskis expressly identifies, in writing, as being permitted in the examination (those Class Handouts will be identified on or before the last day of class).

Students are **not** permitted to bring any other material into the examination (e.g., "Lecture Blueprints"). As well, computers are **not** permitted in the examination room unless a student has obtained specific permission to do so from the Studies Committee.

Students may annotate, **in their own handwriting**, the pages of their Course Text, Course Supplement, and Class Handouts; however, students are **strictly prohibited** from:

- adding or appending any additional pages or material to their Course Text, Course Supplement, and Class Handouts; or
- modifying by any means the dimensions (i.e., length or width) or other characteristic (e.g., line spacing, margin size) of any page of their Course Text, Course Supplement, and Class Handouts.

Tabs can be used only to mark the location of information in this material.

Professor Hadskis reserves the right to review your Course Text, Course Supplement, and Class Handouts during the examination period to ensure that the above requirements have been observed.

Optional Minor Paper

Students have the **option** of writing a minor paper, 12 to 15 double-spaced pages in length. Papers must be submitted to Professor Hadskis both in paper form and electronically (i.e., an email to Professor Hadskis at michael.hadskis@dal.ca) by **Friday, December 7, 2010, at 12:00 p.m.** All of the above information regarding the final examination will apply to students who exercise the minor paper option, except that the examination for such students will constitute 60% of their final grade.

If you are interested in the minor paper option, you **must** submit a 1-2 page paper proposal to Professor Hadskis **on or before Wednesday, October 6, 2010, at 12:00 p.m.** The proposal is to be emailed to Professor Hadskis at michael.hadskis@dal.ca. The proposal must clearly identify: (1) the proposed paper topic; (2) the anticipated thesis of the paper; (3) why the paper topic is relevant to the Health Law area; and (4) a point-form outline of the general issues the student expects to address.

Papers will be evaluated according to the following criteria: (1) research; (2) organization: logic/coherence; (3) analysis-insight-synthesis; (4) literary style; and (5) originality. Please refer to the 2010/2011 Law Calendar (pages 51-52) for further information respecting these criteria.

5) Intellectual Honesty and Discipline

All students in this course **must** read:

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the “plagiarism.dal.ca” website; and
- the Law School policy on plagiarism, as set out in the Law School regulations (available in hard copy from the Associate Dean's office and online at http://law.dal.ca/Current_Students/Course_Selection_Materials/Regulations_Handbook/index.php)

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the Law School, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

6) Student Preparation for Class

As noted above, this course will cover a wide variety of subjects over a relatively short timeframe. As well, since the course draws upon a significant number of

statutory/regulatory instruments, students must be able to efficiently navigate these instruments during class. As a consequence of these factors, students are strongly urged to read the assigned materials in advance of each class.

7) Accommodation

Students seeking special accommodation with regard to course evaluation, such as exam deferral and extensions to deadlines, should consult with Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes as soon as possible, and before an exam is scheduled to be written or an assignment is due. Requests for special accommodation for reasons such as illness or personal circumstances will require an application to the Law School Studies Committee. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes if they require more information about the Studies Committee process. Students wishing to discuss arrangements for classroom assistance should see Professor Wildeman, the law faculty advisor to students with disabilities.

Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require academic accommodation for the writing of tests, quizzes and exams should make their request to the Office of Student Accessibility & Accommodation (OSAA) prior to or at the outset of each academic term (with the exception of X/Y courses). Please see www.studentaccessibility.dal.ca for more information and to obtain Form A – Request for Accommodation. Students may also contact the Office of Student Accessibility & Accommodation directly at 494-2836, and they may contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information.

8) Tentative Schedule of Readings/Topics

The list below directs you to the assigned readings for the course. The scheduling portion of this list is flexible, and the rate at which the materials are covered may be adjusted depending on the pace of the class. It may prove necessary to amend or revise this schedule as the term progresses. Professor Hadskis will inform you orally, in class, of any changes to this schedule. If a student is absent from class, it is that student's responsibility to determine if any changes to the schedule have been announced. Additional reading material, in the form of "Class Handouts", will be distributed throughout the term. The "Assigned Reading" column below does not necessarily reflect the total number of Class Handouts that will be provided.

Date	Topic	Assigned Reading
Sept. 10	Course Introduction	None
Sept.14	Regulation of Health Care Professionals	<u>Text</u> : 69 to 100 (excluding "Complementary and Alternative Medicine" section at 97 to 98) <u>Supp.</u> : 1-1 to 1-25

Sept. 17	Regulation of Health Care Professionals	<u>Supp.</u> : 1-26 to 1-49
Sept. 21	Regulation of Complementary Health Professionals	<u>Text</u> : 97 to 98 <u>Supp.</u> : 2-1 to 2-26
Sept. 24	Class Cancelled	
Sept. 28	The Canadian Health Care System	<u>Text</u> : 1 to 26 & 34 to 59 <u>Supp.</u> : 3-1 to 3-7
Oct. 1	The Canadian Health Care System	<u>Supp.</u> : 3-8 to 3-60
Oct. 5	Consent	<u>Supp.</u> : 4-1 to 4-17 and Section 19 of the <i>Personal Directives Act</i> (page 7-6)
Oct. 8	Consent	<u>Supp.</u> : 4-18 to 4-36; Sections 2 to 54(2) of the <i>Hospitals Act</i> (pages 8-25 to 8-27); and Sections 2(a) and 14 of the <i>Personal Directives Act</i> (pages 7-2 and 7-5)
Oct. 12	Consent	<u>Text</u> : 197 to 221 <u>Supp.</u> : 4-37 to 4-41 (also, refresh your memory of <i>Ciarlariello v. Schacter</i>)
Oct. 15	Minors and Health Care	<u>Handout</u> : 205 to 221 <u>Supp.</u> : 5-1 to 5-30
Oct. 19	Minors and Health Care	<u>Handout</u> : 224 to 237 and 241 to 243 <u>Supp.</u> : 5-31 to 5-35
Oct. 22	Exam Review & “Who Wants to be a Java- aire?”	Review all course material to date
Oct. 26	Health Information	<u>Text</u> : 223 to 243 <u>Supp.</u> : 6-1 to 6-11
Oct. 29	Health Information	<u>Supp.</u> : 6-12 to 6-21, and Section 71 of the <i>Hospitals Act</i> (8-29 to 8-31)

Nov. 2	Health Information	<u>Text:</u> 244 to 255 (excluding “Criminal” at 247 to 248, “Obtaining of Bodily Substances” at 248 to 249, and “Research” at 251-253) <u>Supp.:</u> 6-22 to 6-31, and Sections 23 and 24 of the <i>Children and Family Services Act</i> (5-32 to 5-33)
Nov. 5	Decision-Making at the End of Life	<u>Text:</u> 437 to 455 <u>Supp.:</u> 7-1 to 7-10 and Sections 54 to 54D of the <i>Hospitals Act</i> (8-26 to 8-28)
Nov. 9	Decision-Making at the End of Life	<u>Text:</u> 455 to 478 (excluding “Developments in the United States and England” at 457 to 459, and “Substitute Decision-Making and Organ Donation After Cardiac Death” at 465 to 467) <u>Supp.:</u> 7-11 to 7-24
Nov. 12	Study Day	
Nov. 16	Mental Health Law	<u>Text:</u> 399 to 423 <u>Supp.:</u> 8-1 to 8-31
Nov. 19	Mental Health Law	<u>Supp.:</u> 8-32 to 8-45
Nov. 23	Biomedical Research Involving Humans	<u>Text:</u> 257 to 273 and 280 to 282
Nov. 26	Biomedical Research Involving Humans	<u>Text:</u> 285 to 310 and 251 to 253 <u>Supp.:</u> 9-1 to 9-21 (excluding “Section 7: Clinical Trials”)
	Genetics and the Law	<u>Text:</u> 509 to 517 <u>Supp.:</u> 9-23 to 9-28
Nov. 30	Public Health Law	<u>Text:</u> 479 to 491

		<u>Supp.:</u> 10-1 to 10-22
Dec. 3	Public Health Law	<u>Text:</u> 491 to 508 <u>Supp.:</u> 10-23 to 10-40
Dec. 7	Review Class	Review all course material