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Disability and the Law

Calendar Description

Foundations of Canadian legal principles and practice as they affect community rehabilitation. An internet/on-campus course utilizing weekly interactive discussion sessions and online access to recent cases and leading authorities, current legislation, and online legal research resources, together with legal briefs and course materials prepared by the course instructor

Content/Objectives

- Constitutional law and the significance of the Canadian Charter of Rights and Freedoms
- Criminal justice issues, rights and responsibilities of victims and accused persons, euthanasia, fitness to stand trial, mental disorder and diminished responsibility, the impact of F.A.S.D. in criminal justice, roles of non-legal professional in criminal justice processes.
- Civil law issues and roles of non-legal professionals in regard to: adult guardianship, substitute decision making, contract and tort liability, personal injury compensation, workers compensation, disability insurance, privacy
- Issues in Human Rights Law including the duty to accommodate, rights and remedies, human rights advocacy

Outcomes/Competencies

- Identifies criminal and civil issues and challenges underlying practice in community rehabilitation.
- Uses local and Internet resources to clarify and communicate issues.
- Familiarity with legal requirements and safeguards for best rehabilitation practice.
- Demonstrates familiarity with various dispute resolution alternatives that may be beneficial to clients.
- Prepares documents for legal or court work.
- Demonstrates knowledge of procedures related to expert testimony.

Assignments

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| 1. Three, 4 - 6 page assignments worth 20% each | 60% |
| 2. On-line test | 40% |

Resources

Course readings and materials [online access]
 Research and legal information resources posted on course web site
 An Interactive CD-ROM. *Disability and the Law*. Media Learning Systems

Details for current course offerings are available at: www.crd.s.org

Instructor and Course Information

COURSE: CORE 573

INSTRUCTOR: Jim Conway

TERM: Fall 2007

TELEPHONE: 297-4401

SECTION: L01

FAX: 297-4201

TIME/DATE: Tuesday, 7pm – 9:30 pm MST

EMAIL jconway@ycdo.ca
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LOCATION: Blackboard (Online)

OFFICE HOURS: By appointment only

Course Content

Description:

Disability and the Law is a course which includes general information about Canadian law pertaining to persons with disabling conditions. An individual's legal rights and responsibilities will vary depending upon the facts of his or her case, and the laws in force in the province in which that person lives. The course is not designed to provide legal advice to individuals and should not be relied upon for that purpose. The information provided in the course materials or by the instructor is not a substitute for the considered opinion of a lawyer consulted in connection with specific fact situations.

Course Outline:

PART I: BASIC PRINCIPLES AND PROCEDURE IN CANADIAN LAW

Module I: Introduction to Canadian Law

A. Legal Analysis

1. Fundamental Legal Principles and Practice: the "rule of law".
2. Distinctions between "law", "facts", and "evidence" and the adversarial process
3. The Distinction between "Civil" and "Criminal" law
4. Legal Research

B. Sources of Law

1. The Constitution of Canada
 - (a) the constitutional framework of law in Canada
 - (b) the division of powers between the Federal and Provincial levels of government
 - (c) the Canadian Charter of Rights and Freedoms
2. Statute Law
 - (a) laws made by elected governments
 - (b) Federal and Provincial human rights legislation as examples of statute law
3. The Common Law
 - (a) laws made through judicial decision making
 - (b) the doctrine of stare decisis
 - (c) the interaction between statutes and Common Law
4. Regulations and By-laws
 - (a) "laws" made pursuant to specific statutory authority
 - (b) municipal by-laws
5. The applicability of law from "foreign" jurisdictions

C. Lawsuits and Legal Procedures

1. How Canadian court systems are organized
 - (a) Trial Courts
 - (b) Appellate Courts
 - (c) The Supreme Court of Canada

2. The Adversarial Process – roles of judges, juries and lawyer

PART II: CRIMINAL LAW AND OTHER LEGAL RELATIONSHIPS BETWEEN CITIZENS AND THE STATE

Module II: The Canadian Charter of Rights and Freedoms

- A. The Importance of the Charter
- B. A Review of Important Charter Provisions
- C. Section 7: Life, Liberty, and Security of the Person
- D. Section 15: Equality before the Law
- E. How the Charter is applied and enforced

Module III: Criminal Law

- A. Fundamental Criminal Law Principles
 1. The legal concepts of “Mens rea” and “Actus Reus”
 2. Responsibility for criminal acts
- B. The legal concept of “Mental Disorder” (Insanity)
 1. Criminal Code provisions regarding “Mental Disorder”
 2. Exemption from criminal responsibility by virtue of mental disorder
 3. Fitness to stand trial
- C. Defenses of Diminished Capacity
 1. Automatism
 2. Intoxication (“Drunkenness”)
 3. F.A.S.D. and similar conditions
- D. The Application of the Criminal Law to Specific Issues
 1. Euthanasia and the Deliberate Cessation of Medical Treatment resulting in death
 2. Assault
 3. Sentencing Mentally Disordered Offenders
 4. Recognition and Enforcement of “Victim’s Rights” in the Criminal Law Process

PART III: THE CIVIL LAW RIGHTS AND RESPONSIBILITIES OF INDIVIDUALS AND GROUPS

Module IV: Issues in Tort and Personal Law

- A. Tort Law
 1. Foundations of Tort Law
 - (a) Intentional Torts and Wrongful Acts
 - (b) Negligence
 - (c) Defenses
 2. Tort actions to recover compensation for personal injury
 - (a) the compensation principle
 - (b) the legal concept of “damages” for personal injury
 - (c) how personal injury damages are calculated
 - (d) “No Fault” Provincial Motor Vehicle Accident Compensation Plans
 3. Insurance and Workers Compensation
 4. Disability Insurance and other problems in Insurance Law
- B. “Personal” Law
 1. Important Common Law Principles affecting Personal Law
 - (a) The Doctrine of “Parens Patriae”
 - (b) Guardianship
 - (c) Trusts
 - (d) Informed consent

- (e) Substituted consent
- 2. Adult Guardianship and Trusteeship
- 3. Substituted Decision Making
- 4. Advance care directives (“Personal Directives”)
- 5. Powers of Attorney
- 6. Case studies:
 - (a) The Dependent Adults Act (Alberta)
 - (b) The Guardianship Act (British Columbia)
 - (c) The Vulnerable Persons Living with a Disability Act (Manitoba)
 - (d) The Substitute Decisions Act (Ontario)

C. Provincial Mental Health Legislation

- D. Issues arising from Contract Law
- 1. Basic Principles of Contract Law
 - 2. Consumer Protection Legislation

Module V: Human Rights Law

- A. Human Rights Legislation and Enforcement
- 1. Provincial Human Rights Legislation
 - 2. The Canadian Human Rights Act
 - 3. Enforcement of Human Rights: Rights and Remedies
- B. The “Duty to Accommodate”

PART IV: ISSUES IN DISABILITY LAW

Module VI: Legal Issues for Professionals

- A. Rights and Obligations of Persons Who Work with Persons with disabling Conditions
- 1. The application of criminal law to professionals working with handicapped persons
 - 2. Protection for professionals who are the victims of their clients’ criminal acts
 - 3. Civil Liability and Insurance
 - 4. Privacy and the Protection of Confidential Information
 - (a) The legal concept of “Privilege”
 - (b) Disclosure of Records
 - (c) Professional Ethics and the Administration of Justice
 - 5. Vicarious Liability
 - 6. Some Issues in Employment Law
- B. Professionals Roles in the Administration of Justice
- 1. Preparation of assessments and reports for lawyers
 - 2. The role of professionals as “expert” witnesses
 - 3. Advocacy
- C. Human Rights Commissions and the Ombudsman
- D. The Delivery of Legal Services
- 1. The Relationship between Lawyers and their Clients
 - (a) “Instructions” to Counsel
 - (b) Ethical Obligations of Counsel
 - 2. Privileged communications: Solicitor-Client privilege
 - 3. Litigation and Alternate Dispute Resolution
 - 4. Sources of Legal Information and Representation
 - (a) Private retainer of lawyers
 - (b) Legal Aid
 - (c) Public legal education services

Details of Assignments

1. Three Case Study Assignments, worth 20% each

Value 60%

Students will be required to complete three assignments during the session. One assignment topic will be compulsory. Students will have a choice of topics in connection with the remaining two assignments. Assignments will require students to analyze a fact situation, determine which legal principles apply to the facts presented and express an opinion, supported by references, as to the legal result in each situation. Each assignment will require a written response to the fact situation presented (suggested length is 4 – 6 pages). Due dates will be set in consultation with students at the beginning of the session.

Course assignments are presented as case scenarios, which require students to apply what they have learned in the course to realistic fact situations. Each scenario is hypothetical but will be based on actual cases. There is no required format for the assignments as there will often be different (but equally valid) approaches to each scenario. What is desirable is an effective, persuasive presentation of your position. Generally this will require you to consider the facts of the case scenario and the issues raised by the facts. Apply the legal principles and information that have been presented in the course, and make reference to authoritative sources that support your position or the argument you advance in response to the scenario.

A Suggested Format Is:

1. **Facts:** Set out what facts you consider to be the most important [not all the information presented in an assignment will be relevant and some may be irrelevant for the problem presented].
2. **Issues:** What are the issues that result from the important facts?
3. **Analysis:** Analyze and discuss the issues based on legal principles, statutes and case precedents which we have discussed or from the course materials, together with any other authoritative sources which you may have found through your research and consider as applicable.
4. **Conclusion**

The assignments are due the last class day of September, October & November. They should be submitted on line through the course assignment page or via email. The first assignment will be marked in detail and returned to the student prior to the third week in October to assist the student in preparing the remaining assignments.

2. On-line test of legal constructs related to community practice.

40%

Marking Scheme

95 – 100	A+	80 – 84	B+	65 – 69	C+	50 – 54	D+
90 – 94	A	75 – 79	B	60 – 64	C	45 – 49	D
85 – 89	A-	70 – 74	B-	55 – 59	C-	Below 44	F

NOTE:

*The last day to change/register for courses and pay balance of fees for the Fall session is **September 21st, 2007.**
The last day to withdraw is **December 7th, 2007.***

All assignments will be held at the Community Rehabilitation and Disability Studies office for only one (1) year after the last day of term.

Academic Accommodation: Students with a disability, who require academic accommodation, need to register with the Disability Resource Centre <http://www.ucalgary.ca/UofC/Others/DRC> MC 295, telephone 220-8237. Academic accommodation letters need to be provided to course instructors no later than fourteen (14) days after the first day of class. ***It is a student's responsibility to register with the Disability Resource Centre and to request academic accommodation, if required.***

IMPORTANT: Intellectual honesty is the cornerstone of the development and acquisition of knowledge and requires that the contribution of others be acknowledged. Consequently, plagiarism or cheating on any assignment is regarded as an extremely serious academic offence. Students should examine sections of the University Calendar that present a Statement of Intellectual Honesty and definitions and penalties associated with Plagiarism/Cheating/and Other Academic Misconduct.

Purchasing a Textbook from the University of Calgary Bookstore:

- Shop On-line www.calgarybookstore.ca/ Click on --> Shop On-line; Click on --> Textbooks; Follow the directions.
- Order by Phone: (403) 220-5937; Toll Free: 1-877-220-5937
- In Person: Go to the University of Calgary Bookstore, MacEwan Student Centre, Room 155, 2500 University Drive NW, Calgary, AB T2N 1N4