



CANADIAN COLLEGE OF
HEALTH LEADERS
COLLÈGE CANADIEN DES
LEADERS EN SANTÉ

Legal Aspects of Canadian Healthcare Delivery

The School of Health
Administration



DALHOUSIE
UNIVERSITY

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3rd – 7th
2024

Halifax,
Nova Scotia



EFFECTIVE HEALTHCARE PROFESSIONALS ARE KNOWLEDGEABLE ABOUT THE LAW

Professionals involved in healthcare delivery must navigate an increasingly complex and daunting legal terrain. The *Legal Aspects of Canadian Healthcare Delivery Certificate* offers a five-day, customized learning experience that centers on the intersection of law and the Canadian healthcare system. This intensive program explores fundamental legal rules highly relevant to the daily professional lives of healthcare providers and individuals in management and leadership positions. You will emerge from this program better equipped to operate effectively and comfortably within a rapidly evolving legal environment and to distinguish yourself as a legally informed leader in your organization.

What you can expect . . .

UNMATCHED EDUCATIONAL SYNERGY The *School of Health Administration* has drawn on its long-standing ties with the prestigious *Schulich School of Law* and the world-renowned *Dalhousie Health Law Institute* to design and deliver an exceptional, innovative program.

A HIGHLY RELEVANT CURRICULUM The program addresses current, real-world legal issues that are of critical importance to people working in the public and private healthcare sectors.

A PEER NETWORK Over the course of the week, you will work closely with other accomplished healthcare professionals and have the opportunity to exchange insights, debate issues, discuss the legal challenges facing your organization, and forge strong relationships that will extend beyond the program.

SKILLED EDUCATORS The faculty has been carefully chosen to ensure an optimal blend of leading legal scholars and senior legal practitioners with a wealth of experience dealing with legal issues arising in the healthcare context. The faculty is committed to challenging your thinking about the role law plays in your professional life and encouraging informed leadership on legal issues pertinent to your work setting.

AN ENRICHING LEARNING ENVIRONMENT Instruction will entail a strategic balance of lectures, case-based analysis focused on practical problem-solving, peer-to-peer learning, and instructor-facilitated discussion and debate. Enrollment is limited to 20 attendees to foster an intimate and interactive learning experience.

A VALUE-ADDED EXPERIENCE This program will:

- broaden your understanding of the general framework for Canada's legal system
- expand your knowledge of fundamental and emerging legal issues in healthcare delivery
- provide strategies for effectively dealing with potential legal problems
- equip you to be more informed consumers of legal information, including legal counsel opinions
- give you greater confidence in working within legal structures and parameters
- enhance your ability to lead in a highly regulated environment
- allow you to meaningfully participate in law reform initiatives that will impact your organization

WHO WILL BENEFIT FROM THE PROGRAM?



The program will provide critical legal knowledge to anyone participating in healthcare delivery, such as those involved in:

- any of the health professions
- human resources
- risk management
- quality assurance
- patient safety
- health policy
- professional practice
- professional associations
- unions
- licensing bodies
- health information management

PROGRAM COMPLETION

Participants will receive a framed Certificate of Program Completion by attending all five days of the program and successfully completing an open-book, competency-based, multiple-choice assessment that will be available in an online, take-home format at the conclusion of the program.

REFLECTIONS FROM PAST PARTICIPANTS

“The presenters were extremely knowledgeable and more importantly, able to convey that knowledge in a very organized, enthusiastic way. They were very respectful that the participants had knowledge and experience to contribute.

S. Aylward, Lawtons

Excellent! Great range of topics. Consider extended number of days to allow for additional topics.

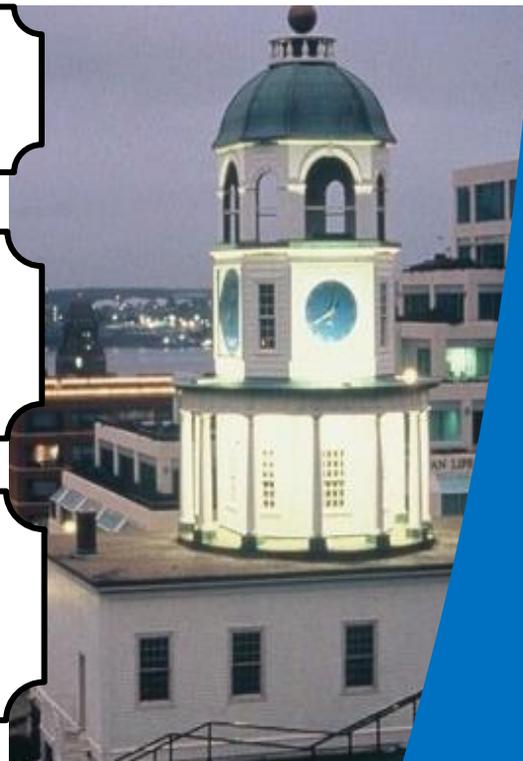
M. Murphy, Nova Scotia Health Authority

This is an invaluable program that I strongly recommend for any healthcare profession or Board of Director Member.

I-M. Fiala, MRI Marketing and Business Development

Program exceeded my expectations. The caliber of the lectures and program delegates provided for an extremely enriched learning environment. Highly recommend!

P. Brar, Alberta Health Services



The Curriculum

DAY 1: MAY 3, 8:30AM – 12:00PM

INTRODUCTION TO THE CANADIAN LEGAL SYSTEM

FACULTY: STEVE COUGHLAN, FACULTY MEMBER, SCHULICH SCHOOL OF LAW, DALHOUSIE UNIVERSITY

- Constitutional law
 - Division of powers
 - Canadian Charter of Rights and Freedoms
- Non-constitutional law
 - Statutes versus regulations
 - Statutes versus the common law
 - Common law versus the civil law
- Decision-makers in the legal system
 - Courts
 - Legislatures and Parliament
 - Administrative bodies (including Ministers/government departments)
- Proceedings before decision-makers

DAY 1: MAY 3, 1:00PM – 4:30PM

HEALTH SYSTEM GOVERNANCE

FACULTY: LEAH HUTT, DIRECTOR OF POLICY AND REGISTRATIONS, NOVA SCOTIA COLLEGE OF PHARMACISTS

- Constitutional authority in health and healthcare
 - Federal powers
 - Provincial/Territorial powers
- The legislative landscape and the importance of legislation
 - Public health insurance
 - Delivery of health care services
 - Public health
 - Laws of general implication
- Public health insurance
 - Legislation
 - Administration
- Legal framework for the governance of the delivery system
- Law and health system performance
 - Access
 - Quality
 - Cost

The Curriculum

DAY 2: MAY 4, 8:30AM – 12:00PM

INSTITUTIONAL GOVERNANCE

*FACULTY: HEATHER WEBSTER & HOLLY RYAN, ASSOCIATES, BORDEN LADNER GERVAIS
(TORONTO OFFICE)*

- The not-for-profit public corporation: who owns this place?
- Corporate and organization structures
- Boards of Directors: roles and accountabilities
 - Applicable laws
 - Applicable standards
 - Core concepts: fiduciary obligations; due diligence; business judgment rule
- Organization and structure of the medical staff
- Hospital foundations
- Privileging
- Administrative law

DAY 2: MAY 4, 1:00PM – 4:30PM

REGULATION OF HEALTH PROFESSIONALS

FACULTY: RYAN BAXTER, PARTNER, MCINNES COOPER

- Modes of regulation
- Legislative and administrative structure
- Membership/licensing
- Standards of practice and codes of ethics
- Investigation and discipline
- Continuing competence
- Cutting edge issues in regulation (e.g., interdisciplinary and collaborative care)
- New technologies (e.g., telehealth)



The Curriculum

DAY 3: MAY 5, 8:30AM – 12:00PM & 1:00PM – 4:30PM

TORT LIABILITY AND THE LITIGATION PROCESS

*FACULTY: MICHAEL HADSKIS, FACULTY MEMBER, SCHULICH SCHOOL OF LAW
& SCHOOL OF HEALTH ADMINISTRATION, DALHOUSIE UNIVERSITY*

- What is Tort Law?
- Consent to treatment
 - Types of Consent
 - Withdrawal of consent
 - Consent elements
 - Consent must be voluntary
 - Consent must be given by a competent person
 - Consent must refer to treatment and provider
 - Consent must be informed
 - Disclosure standard
 - Decision causation
- (Limited) consent exceptions
 - Emergency doctrine
 - Statutory immunity/authority
- Negligence: diagnosis and provision of treatment
 - Elements of a negligence action
 - Duty of care
 - Standard of care
 - Damage/injury
 - Causation
 - Remoteness
 - Defences
 - Contributory negligence
 - Statutory limitation periods
- Institutional Liability
 - Direct liability of healthcare institutions
 - Vicarious liability of healthcare institutions
- Damage awards
- Liability insurance
- Anatomy of a civil action

The Curriculum

DAY 4: MAY 6, 8:30AM – 12:00PM

WORKFORCE MANAGEMENT: EMPLOYMENT LAW

FACULTY: MALCOLM BOYLE, KC, PARTNER, MCINNES COOPER & ALEX WARSHICK, ASSOCIATE, MCINNES COOPER

- Creating an employment relationship
 - Employee versus independent contractor
 - Applications, reference checks and interviews
 - The employment contract
 - Probation periods
 - Terms of the employment relationship required by statute
 - Definition of job duties and responsibilities
 - Setting out benefits
 - Termination provisions
 - Restrictive covenants
- The ongoing employment relationship
 - Modification of the terms of the employment contract
 - An employee's duty of fidelity
 - Regular performance evaluations
 - Discipline and performance issues
- Terminating the employment relationship
 - What constitutes dismissal or resignation
 - Circumstances for terminating
 - Terminating an employee
- Competition of the former employee after termination
- Insurance
 - Managing and avoiding safety violations
- Workplace investigations

DAY 4: MAY 6, 1:00PM – 4:30PM

WORKFORCE MANAGEMENT: LABOUR LAW, HUMAN RIGHTS LAW, OCCUPATIONAL HEALTH AND SAFETY LAW

FACULTY: DALE DARLING, KC, MEDIATOR & ARBITRATOR

- Labour law
 - Legislative framework
 - The collective agreement
 - Bargaining landscape in the health sectors
 - Work stoppages
 - Nexus between regulated professions and collective agreements
 - Discipline: issues specific to healthcare
- Human rights
 - Legislative framework
 - Dispute resolution (changes to the process)
 - Managing and avoiding claims of discrimination
- Occupational health and safety
 - Legislative framework
 - Work refusals

The Curriculum

DAY 5: MAY 7, 8:30AM – 12:00PM & 1:00PM – 4:30PM

PRIVACY AND CONFIDENTIALITY OF HEALTH INFORMATION

FACULTY: *MARY ANNE CAMPBELL, ASSOCIATE GENERAL COUNSEL,
NOVA SCOTIA HEALTH AUTHORITY
DAVID FRASER, PARTNER, MCINNES COOPER*

- Common law confidentiality obligations
- Codes of ethics and confidentiality
- Legislation
 - Public sector privacy legislation
 - Health information legislation
 - Private sector privacy legislation
 - Legislation governing information in the course of commercial activity
- Consensual release of health information
 - To the patient
 - To other healthcare providers
 - To surrogate decision-makers
 - To other third parties
- Non-consensual release of health information
 - Protection of the patient
 - Best interests
 - Emergencies
 - Adult protection
 - Narcotic reporting
 - Protection of others
 - Child abuse
 - Prevention of harm
 - Disease
 - Adverse drug reaction
- Use of records in proceedings concerning the patient
 - Civil action
 - Subpoenas and search warrants
- Use of Records in Proceedings Concerning the Health Professional



ABOUT THE FACULTY



Malcolm Boyle, KC – Senior Partner, McInnes Cooper (Halifax Office)

Representing local, national, and international employers in all sectors and industries, Malcolm provides strategic advice on all matters dealing with employees from employment hiring to terminations, employment policies, and workplace investigations. He has been recognized by Best Lawyers in Canada for his practice in Labour and Employment and Workers' Compensation Law since 2006, and by Lexpert Magazine as a Leading Practitioner in Labour and Employment Law. Malcolm is a Fellow of the College of Labour and Employment Lawyers, Past Chair of the Canadian Bar Association's National Labour and Employment Section and currently serves as an elected director on the Canada Games Council.



Steve Coughlan – Law Professor, Schulich School of Law, Dalhousie University

Steve's primary teaching area is Criminal Law and Procedure, but he has also taught Health Law, Medical Ethics (in the Faculty of Medicine), Constitutional Law, and Clinical Law. He has received many awards for his teaching, including the Association of Atlantic Universities Distinguished Teacher Award (2005), the Dalhousie Alumni Association Award of Excellence for Teaching (2004), the Hannah and Harold Barnett Award for Excellence in Teaching First Year Law (2004 and 2009), and the Dalhousie Law Students' Society and Alumni Association Award for Teaching Excellence (2000). He is the author or co-author of more than thirty books, and in 2019 was named one of the 25 most influential lawyers in the justice system.



Dale Darling, KC, Mediator & Arbitrator

Dale has represented clients in the labour and employment area for 25 years, most recently as Senior Legal Counsel at the Health Association Nova Scotia (HANS). She has appeared at all levels of courts in Nova Scotia as well as the Labour Board, Workers' Compensation Appeals Tribunal, human rights Boards of Inquiry and countless arbitrations and mediations. Retiring from HANS in June of 2023, Dale has embarked on a Mediation and Arbitration practice, with an appointment to the Minister's List of Arbitrators in the fall of that year. Dale has been a Small Claims Court Adjudicator (Halifax Bench) since 2018 and is a part-time faculty member at the Schulich School of Law.



Mary Anne Campbell – Associate General Counsel, Nova Scotia Health Authority

Mary Anne is a practicing lawyer and experienced in-house counsel. As Associate General Counsel to Nova Scotia Health Authority, she advises healthcare providers, administrators, and executives on a broad range of legal issues, including patient capacity and consent, substitute decision making, privacy, human rights, credentialing and professional regulation, and mental health law. She has appeared before the Criminal Code Review Board, Involuntary Psychiatric Treatment Act Review Board and Mental Health Court, among others. Mary Anne also teaches dental law in the Dalhousie University Faculty of Dentistry and is pursuing a Master of Laws in Health Law from Osgoode Hall.



David Fraser – Partner, McInnes Cooper (Halifax Office)

David is one of Canada's leading internet, technology, and privacy lawyers. He advises private and public sector clients on all aspects of technology and privacy laws. He is the author of the popular Canadian Privacy Law Blog (blog.privacylawyer.ca), the Past President of the Canadian IT Law Association, and the former Chair of the National Privacy and Access Law Section of the Canadian Bar Association. David has been consistently included in The Best Lawyers in Canada in the category of Information Technology Law. He is listed among the world's leading lawyers in Internet and eCommerce Law in the International Who's Who of Business Lawyers. David is currently a member of the Joint Data Access Committee of the IWK Health Centre in Halifax. He is also a member of the faculty of the Schulich School of Law.

Michael Hadskis – Law Professor, Schulich School of Law & School of Health Administration

Michael's main teaching areas are health law and tort law. He has received many teaching awards in the Faculties of Law and Health, including the Faculty of Health Teaching Excellence Award (2017), the Hannah and Harold Barnett Award for Excellence in Teaching First Year Law (2018 and 2023), and the Dalhousie Law Students' Society and Alumni Association Award for Teaching Excellence (2014). In 2019, he was honoured with a University Teaching Fellow appointment. Michael's research deals with health law and policy issues. Michael is a co-editor of Dental Law in Canada published by LexisNexis and has recently entered an agreement with the publisher to produce a fourth edition of this text. He was a co-investigator under a \$1.5 million Canadian Institute of Health Research Neuroethics New Emerging Team grant. Michael has served as a member of the IWK Health Centre Research Ethics Board and the Dalhousie Health Sciences Research Ethics Board. In connection with his service on the latter Board, he received Dalhousie's Distinguished Service Award in 2007. Presently, he is a member of Dalhousie's Research Ethics Appeal Board.



Ryan Baxter – Associate, McInnes Cooper (Halifax Office)

Ryan is a Partner at McInnes Cooper in Halifax. His practice is primarily focused in the areas of health law and the regulation of professions. As general counsel to a number of health regulators, Ryan assists with professional conduct processes, including investigations, complaints and discipline, and is often involved in the drafting and interpretation of governing legislation, regulations, by-laws and policies. In 2023, Lexpert® recognized Ryan as a Rising Star: Leading Lawyers under 40.



Leah Hutt – Director of Policy and Registrations, Nova Scotia College of Pharmacists

Leah began her career in private legal practice where her work included advising health facilities and health professionals. For the past two decades she has worked on a wide range of health law and policy initiatives with academics, governments and health profession regulators, including issues related to health system governance, public health insurance, regulation of health professions, quality, mental health, end-of-life, privacy, consent, and guardianship. Leah has regularly taught students training at Dalhousie to be health professionals and administrators. She has published on a diverse range of topics, including genetic discrimination, privacy and research ethics, and she is a co-editor of Dental Law in Canada published by LexisNexis.



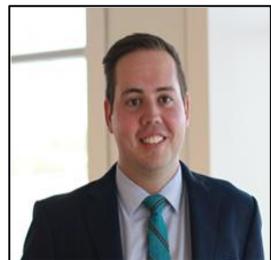
Holly Ryan – Associate, Borden Ladner Gervais (BLG) (Toronto Office)

Holly practices corporate and commercial law with a focus on the health sector. She advises clients on a broad range of matters including mergers and acquisitions, corporate governance, and commercial agreements. She also provides advice on health regulatory matters, including health product and establishment licensing, clinical trials, research ethics, funding programs, virtual care, marketing and advertising, and interactions with health professionals.



Alex Warshick – Associate, McInnes Cooper (Halifax Office)

Alex is a labour and employment lawyer who primarily advises and represents employers in, amongst other fields, the healthcare, technology, manufacturing, and construction industries. Alex represents employers before administrative tribunals (such as the Nova Scotia Labour Board and the Human Rights Commission) and the Courts. He regularly presents and publishes on labour and employment law developments and issues, particularly with respect to workplace safety, working from home, and employment contract interpretation. Alex was previously a senior editor of the McGill Journal of Law



Heather Webster – Associate, Borden Ladner Gervais (BLG) (Toronto Office)

Heather advises and advocates for clients in the health sector. Heather provides advice to health care organizations on a wide range of issues including physician credentialing, risk management, ALC/discharge planning, policy, and regulatory college matters. Heather's disputes practice is focused on civil litigation, and she has experience representing clients in medical malpractice, administrative law, and public law matters.



Please register through Open Learning Destiny One **(SOHA-LACH0001)**

Fee Per Delegate: Non-refundable application fee (\$70) plus course fees (\$2995). Fees include attendance, program materials, continental breakfast, lunch, and refreshments for each of the 5 days of the program. *Participant enrolment is limited so please register as early as possible.* Payment must be received 14 days prior to the course start date. The price does not include accommodations.

Room reservations can be booked at Hampton Inn, Halifax-Downtown for a preferred rate of \$189 per night. Please indicate you are attending the Health Law Certificate program by Dalhousie University.

(902) 422-1391 (phone)
1-855-331-0334 (toll free)

Location: Hampton Inn and Homewood Suites by Hilton, Halifax-Downtown
1960 Brunswick Street
Halifax, NS B3J 2J7
Phone: (902) 407-9960

Certificate of Completion: Participants must attend all 5 days of the program and successfully complete an open-book, competency-based, multiple-choice assessment that will be available in an online, take-home format at the conclusion of the program. Participants successfully completing the requirements of the program will receive a framed Certificate of Program Completion.

To Register: Please complete the registration form in Destiny One. A non-refundable application fee of \$70 is required. Participants accepted to the Certificate will receive an invoice via email from the Open Learning Destiny One system outlining remittance instructions for credit card payments. If payment by cheque is preferred, please make payable to School of Health Administration.

Mailing Address:

School of Health Administration CE Law Program
Sir Charles Tupper Medical Building, 2nd Floor
5850 College Street, PO Box 15000
Halifax, NS B3H 4R2

Questions: shacerts@dal.ca or 902.494.7097

MAINTENANCE OF CERTIFICATION

Attendance at this program entitles certified Canadian College of Health Leaders members (CHE / Fellow) to **10 Category II credits** towards their maintenance of certification requirement.

MAINTIEN DE LA CERTIFICATION

Une participation à cette réunion par un membre certifié du Collège canadien des leaders en santé (CHE / Fellow) vaut **10 crédits de la catégorie II du MDC** à l'égard de l'exigence du maintien de la certification

