



**DALHOUSIE  
UNIVERSITY**

SCHULICH SCHOOL OF LAW

## **Laws (2224) / 3 Credit Hours/Course Title Syllabus**

Fall 2018/Winter 2019

**Class hours**, 11:00 a.m. – 12:50 p.m. Weldon (W309) except March 1, 2019 we will be in W401.

**Instructor:** Paula M. Wedge, LL.M

**Office:** W309

**Office Phone:** (W) 902-455-2032 (C) 902-221-5028

**Office Hours:** Fridays 1 hour following class 12:50pm – 1:50pm

**Email:** [wedgepm@gmail.com](mailto:wedgepm@gmail.com)

In addition to office hours, students are encouraged to contact me by email at anytime with comments, questions or a request to meet outside of office hours. Every effort will be made to grant such requests. Emails received by 4:00 p.m. will be responded to the same day during weekdays. On weekends, the response time will be as soon as possible.

In an emergency, I may be contacted by telephone. If a message is left, it will be returned as soon as possible.

### **Course Description**

This course will allow students to explore selected topics concerning the legal implications of our aging population. A wide range of topics will be covered including elder abuse, age discrimination, competency, financial management, personal care, assisted living and government financial and support programs. The topics will incorporate consideration of relevant legislation and legal tools such as powers of attorney, living wills, trusts, wills and representation. Topics will be addressed either from a policy oriented perspective, or with the object of the development of practical skills, or both.

### **Course Pre-requisites, Co-requisites and/or other Restrictions**

Any one of the Equity and Trusts, Family Law, Health Law, Law of Succession, or Taxation I

## Learning Management System Site Information

If applicable, indicate to students how to access the learning management site for the course, what they will find there, and how the site will be used in the context of this course. **Please note: Any changes to assignment due dates must be changed via this syllabus and resubmitted to the Office of the Associate Dean.**

### Required Text(s) N/A

Required readings and lecture notes (wherever possible) will be posted on the Learning Management Site.

A course Work Plan, containing key days will also be posted on the site and distributed in class.

List any other suggested readings, and any other materials including electronic resources, noting how and where they can be accessed. Provide students with some indication of how they might use these additional sources and how they may be beneficial to their learning.

You may wish to note assignment due dates and exam dates here. \*\*\*NB.: Where possible, note university holidays and important dates from the university calendar such as withdrawal and drop dates.

Week/Module Class Dates	Focus Topic	Speakers	Readings
Week 1/ Day 1/ January 11, 2019	<b>Introductions</b>  <b>Administration Matters</b>  <b>What is Elder Law?</b>  <b>Why does Elder Law Matter?</b>	PMW	Charmaine Spencer and Ann Soden, "A Softly Greying Nation: Law, Aging and Policy in Canada" (2007) 2: The Journal of International Aging, Law and Policy 1  Ann M. Soden, Foreword to <i>Beyond Elder Law</i> , Israel Doron and Ann M. Soden, ed. (Germany: Springer, 2012) vii-xi  Ann Soden, ed. <i>Advising the Older Client</i> . Markham, ON: LexisNexis Butterworth, 2005. pp 1-11

<p>Week 2/ Day 2/ January 18, 2019</p>	<p><b>Law of Succession</b></p> <p><b>Capacity</b></p>	<p>Timothy Matthews, Q.C.</p> <p>PMW</p>	<p>Law of Succession document 4127-9058-1012 v1</p> <p>M. Jasmine Sweatman, ed. <i>Powers of Attorney and Capacity: Practice and Procedure</i>. Toronto: Canada Law Book, 2014. (generally)</p>
<p>Week 3/ Day 3/ January 25, 2019</p>	<p><b>Powers of Attorney</b></p> <p><b>Personal Directives</b></p>	<p>PMW</p> <p>PMW</p>	<p>The Powers of Attorney Act - Final Report Law Reform Commission of Nova Scotia August 2015, pp 114-170 on website</p>
<p>Week 4/ February 1, 2019</p>	<p><b>Munro Day - No Class</b></p>		<p>None</p>
<p>Week 5/ Day 4/ February 8, 2019</p>	<p><b>Adult Capacity and Decision-Making Act and Regulations</b></p>	<p>Jeanne Desveaux</p>	<p>Read the Statute and regs as well as the guidelines from the Public Trustee's Office website.</p>
<p>Week 6/ Day 5/ February 15, 2019</p>	<p><b>Elder Abuse - Types of Abuse - Responses to Abuse</b></p> <p><b>Adult Protection</b></p>	<p>PMW</p> <p>PMW</p>	<p>Ann Soden, ed. <i>Advising the Older Client</i>. Markham, ON: LexisNexis Butterworth, 2005. pp 197-233; 235-250</p>
<p>Week 7/ February 22, 2019</p>	<p><b>Study Break - No Class</b></p>		<p>None</p>
<p>Week 8/ Day 6/ March 1, 2019</p>	<p><b>Trusts in Estate Planning</b></p>	<p>Richard Neidermayer</p>	<p>Woodman, F.L., "Use of Trusts in Estate Planning" in Woodman, Gillen, <i>The Law of Trusts: A Contextual Approach</i>, pp. 739-748; 750-755; 761-763.</p>

Week 9 Day 7/ March 8, 2019	<b>Real Estate and Older Persons</b> <b>Housing Issues</b>	Jessice Lyle  PMW	None
Week 10 Day 8/ March 15, 2019	<b>Resources Related to Continuing Care</b>	Marie-Claire Chartrand  PMW	None
Week 11/ Day 9/ March 22, 2019	<b>Medical Assistance in Dying (MAID) and Voluntary Stopping Eating/Drinking (VSED)</b>	PMW Dr. Iona Wile	J. Downie, "An Alternative to The Legal Status of Voluntary Stopping Eating and Drinking (VSED)"; JAMA Article on VSED, J. Downie, "Interpreting Canada's Medical Assistance in Dying <u>Carter v Canada</u> (2015) SCC
Week 12/ Day 10/ March 29, 2019	<b>Financial Planning Issues for Older Persons</b>	Trevor Daigle	None
Week 13/ Day 11/ March April 5, 2019	<b>Student Presentations</b>		None

### Course Assessments

Provide a short description of each piece of work to be submitted which will count towards the final grade, including the duration and format of tests and final exams. Detailed descriptions and guidelines can be provided through handouts via the learning management system.

<b>Assessment</b>	<b>Date of Evaluation</b>	<b>Weighting</b>
Class Participation	April 5, 2019	10%

Class Presentation	March 29, 2019 (Oral Presentation)	20%
Major Paper	April 5, 2019	70%

### **Class Presentation**

The Adult Capacity and Decision-Making Act came into effect in December 2017, thus replacing the Incompetent Persons Act. Many people working with individuals with intellectual disabilities heralded the new Act as a significant move in the right direction while others criticized it for being insufficient.

Prior to it becoming law, this legislation was subject to the proceeding of the Law Amendments Committee of the Nova Scotia House of Assembly. Interested parties appeared before the Committee to speak for or seek amendments

Q: What would your presentation be to the Law Amendments Committee?

8-10 pages, 12 font double-spaced

Due March 29, 2019 in class; 5-6 minute presentation.

### **Major Paper Guidelines:**

- Must be formal
- State your thesis
- Can take a position but acknowledge opposing views
- Anchor with authorities
- High Calibre of writing, organization and analysis
- Structure it logically
- Infuse an element of yourself; originality
- Cannot be a descriptive of an issue
- Comparative work acceptable
- Research – start general, move to specific
- Develop a broad outline
- Provide background before developing thesis
- Conclusion – tie in with your thesis
- Include Bibliography and Footnotes
- Vigorously edit

(Credit: Faye Woodman, Professor Emeritus)

Topic selection begins January 11, 2019

Final Selection January 25, 2019

Detailed Outline by February 8, 2019

Draft Paper Substantially Completed by March 22, 2019

Submit Final Paper on April 5, 2019 at reception by 4:00pm

25 pages, 12 font, double-spaced

**All instructors should outline their policies with respect to the following Law specific policies and procedures:**

1. Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit [www.dal.ca/access](http://www.dal.ca/access) for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

2. Submission of Major Papers and Assignments

Major papers and assignments must be submitted in hard copy. Students should hand papers in to the place stipulated by the instructor and ensure they are date and time stamped. Please read the law school policy on late penalties: <https://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>

Please note students may also be required to provide an identical electronic copy of their paper to the instructor by the due date. Papers may be submitted by the instructor to a text-matching software service to check for originality. Students wishing to choose an alternative method of checking the authenticity of their work must indicate to the instructor, by no later than the add/drop date of the course, which one of the following alternative methods they choose:

- a) submit copies of multiple drafts demonstrating development of their work
- b) submit copies of sources
- c) submit an annotated bibliography

### 3. Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism

<http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>.

Any paper or assignment submitted by a student at the Schulich School of Law 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 and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

All syllabi must include links to advising support and fair dealing guidelines.

Required links:

\* General Academic Support – Advising Halifax:

[https://www.dal.ca/campus\\_life/academic-support/advising.html](https://www.dal.ca/campus_life/academic-support/advising.html)

\* Fair Dealing Guidelines <https://libraries.dal.ca/services/copyright-office/guidelines/fair-dealing-guidelines.html>