

*Community Rehabilitation
and Disability Studies*

Calendar Description	
Foundations of Canadian legal principles and practices as they affect community rehabilitation	
Content/Objectives	
<p>Constitutional law and the significance of the Canadian Charter of Rights and Freedoms</p> <p>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.</p> <p>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</p> <p>Issues in Human Rights Law including the duty to accommodate, rights and remedies, human rights advocacy</p>	
Outcomes/Competencies	
<ul style="list-style-type: none"> • 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	
<ol style="list-style-type: none"> 1. Three, 4 - 6 page assignments worth 20% each 2. Examination 	<p>Value 60%</p> <p>Value 40%</p>
<p>In keeping with the University of Calgary's emphasis on the importance of academic writing in student assignments (section E.2 of 2016-17 Calendar), this course relies heavily on writing and the grading thereof in determining a student's mark. Competency in writing is not the exclusive domain of the humanities and social sciences, nor does it solely mean accuracy in mechanics (grammar, spelling, punctuation). The University of Calgary offers a number of instructional services through the Students' Success Centre's Writing Support Services (http://www.ucalgary.ca/writingsupport/) for students seeking feedback on assignments or seeking to improve their general writing skills. Students are strongly encouraged to take advantage of these programs.</p>	

Resources

Course readings and materials [online access]
Research and legal information resources posted on course web site

A list of required readings for all course sections will be outlined on D2L and links and documents will be made available, where possible. Required readings have been chosen carefully to inform you and enhance the lecture material. **Students are REQUIRED to complete assigned readings BEFORE each lecture.** Discussions in class and in tutorials will be conducted with the assumption that the assigned readings have been completed.

Students should be aware that many of the readings they will be assigned may be of an unfamiliar nature and style. Students should allot sufficient time to allow for several reads of the assigned material.

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

Instructor and Course Information

COURSE:	Core 573	INSTRUCTOR:	Jim Conway
TERM:	Winter 2017	TELEPHONE:	403-370-1716
SECTION:	L01		
TIME/DATE:	Tuesday, 7:00pm - 9:50pm	EMAIL	jconway@ucalgary.ca
LOCATION:	WEB	OFFICE HOURS:	By appointment only

Course Content

Disability and the Law is a course that includes general information about Canadian law pertaining to persons with disabling conditions and rehabilitation professionals. 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 resides. Course readings and materials will be based on current Canadian statutes and case law and will be made available online. 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.

PART I: BASIC PRINCIPLES AND PROCEDURE IN CANADIAN LAW

Module I: Introduction to Canadian Law

This module introduces the legal process and legal structure of the Canadian legal system. We will consider the sources of our law and how law evolves with our society, how the legal system is structured, and the trial process. Specifically, we will discuss how the recent changes in the law regarding medical assistance in dying came about, using *Rodriguez v. AGBC* (1993), *Carter v. Canada* (2015) and Bill C-14 An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) (2016) as case studies.

A. Legal Analysis

1. Fundamental Legal Principles and Practice: the concept of “rule of law”
2. Distinctions between “law”, “facts”, and “evidence”
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 Federal and Provincial governments
 - (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) examples: municipal by-laws, licensing regulations for development of a group home residence
5. The applicability of law from “foreign” jurisdictions.

C. Structure of the Legal System

1. How the doctrine of *stare decisis* is applied
2. Organization of the Canadian court system
 - (a) Trial Courts
 - (b) Appellate Courts
 - (c) The Supreme Court of Canada

D. The Trial Process

1. The adversarial system
2. Roles of Judges, Juries, and Lawyers
3. The conduct of a trial

PART II: THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS, CRIMINAL LAW AND OTHER LEGAL RELATIONSHIPS BETWEEN CITIZENS AND THE STATE

Module II: The Canadian Charter of Rights and Freedoms

In this module, we consider the importance of the Charter and its impact on Canadian Law

- A. Why the Canadian Charter of Rights and Freedoms is so important
- B. Review of Charter Provisions relating to disability and human rights
- 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 in courts of law

Module III: Criminal Law.

In this module, we will be considering disability, mental illness and psychological disorders in the context of criminal law from the point of view of accused persons and victims

- 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. Deliberate Cessation of Medical Treatment resulting in death
 - 2. Assault and Self-Defence
 - 3. Sentencing of offenders
 - 4. Recognition and Enforcement of “Victim’s Rights” in the Criminal Law Process

PART III: THE CIVIL LAW – LEGAL RELATIONSHIPS BETWEEN CITIZENS, RIGHTS AND RESPONSIBILITIES

Module IV: Issues in Tort and Personal Law

In this module, we will review and discuss how the legal system deals with the individuals’ legal rights and responsibilities and civil dispute resolution [lawsuits and mediation]. As well, we will discuss Canadian law regarding substitute decision making, guardianship and trusteeship

- 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. Issues arising from Contract Law
 - 1. Basic Principles of Contract Law
 - 2. Consumer Protection Legislation
- C. “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)
- D. Mental Health Legislation

Module V: Human Rights Law

This module looks at human rights and enforcement in greater detail

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

PART IV: SPECIFIC ISSUES IN DISABILITY LAW AND PRACTICE

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.

Th
re
e
C
as
e
St
ud
y
A
ss
ig
n
m
en
ts,
w
or
th
20
%
ea
ch

Va
lu
e
60
%

Students will be required to complete three assignments during the session. One assignment 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:

(a) 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].

(b) Issues: What are the issues that result from the important facts?

(c) 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.

(d) Conclusion

The assignments are due the last class day of January (January 31st), February (February 28th) & March (March 28th) or as modified by agreement with class and instructor. They should be submitted on line through the course assignment page (D2L Dropbox). The first assignment will be marked in detail and returned to the student prior to the due date of the next assignment, to assist the student in preparing the remaining assignments.

2. On-line test of legal constructs related to community practice. Value 40%

The examination is a multiple choice take-home examination delivered to the students two weeks prior to the last day of lectures and is due on the last day of lectures, subject to adjustment after discussion with the students. The examination is "on-line"; i.e., students are to return the exam answers via email.

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

IMPORTANT DATES FOR WINTER 2017

Last day to drop a class without financial penalty – **January 20, 2017**

Last day to add a course – **January 23, 2017**

Last day to withdraw from a course – **April 12, 2017**

Tuition and Fee Payment Deadline – **January 27, 2017**

Desire 2 Learn is located on the University of Calgary server and will be used extensively for communication with students. It is the student's responsibility to ensure that s/he gets all posted communications and documents and that s/he receives emails sent by instructors or fellow students through D2L. Your email address on D2L is the one you gave to the Registrar. Using an email address on the University server (name@ucalgary.ca) will ensure that you receive emails and that, should the server ever be down, instructors will be aware of it. Other servers sometimes filter D2L or instructor group mailings as spam; we therefore require that you have your ucalgary.ca email address linked to D2L.

Conduct During Lectures

Students are expected to conduct themselves in a mature and courteous manner during ALL lectures. Students are expected to frame their comments and questions to lecturers in respectful and appropriate language, always maintaining sensitivity towards the topic.

Students are expected to take notes during each session and should not rely solely on handout material supplied by the instructors.

Electronic Devices

The Bachelor of Community Rehabilitation program aims to create a supportive and respectful learning environment for all students. Research studies have found that student use of electronic devices (laptops, tablets, etc) in the classroom negatively affects the learning of both the user and those sitting nearby. Inappropriate use of laptops is also disruptive to your fellow classmates and disrespectful to the lecturer. Their use in the classroom is strongly discouraged and may be prohibited by instructors except in circumstances related to course content. Should laptops be permitted, their use is limited to taking notes and NOT to surf the web, check email or do other unrelated work. Students who use their laptops inappropriately or are otherwise disruptive during lectures will be asked to leave. Repeat offences may be considered non-academic misconduct and disciplined accordingly.

Cell phones and similar devices must be turned off (not merely silent) during class time. Students who disregard this rule during lectures or tutorials will be asked to leave. These items are not permitted under any circumstance during exams/quizzes, etc.

Copyright

It is the responsibility of students and professors to ensure that materials they post or distribute to others comply with the Copyright Act and the University's Fair Dealing Guidance for Students

(library.ucalgary.ca/files/library/guidance_for_students.pdf). Further information for students is available on the Copyright Office web page (<http://library.ucalgary.ca/copyright>)

A Note Regarding Instructor Intellectual Property

Generally speaking, course materials created by professor(s) (including course outlines, presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the professor(s). These materials may NOT be reproduced, redistributed or copied without the explicit consent of the professor. The posting of course materials to third party websites such as note-sharing sites without permission is prohibited. Sharing of extracts of these course materials with other students enrolled in the course *at the same time* may be allowed under fair dealing.

Academic Accommodations Based on Disability

It is the student's responsibility to register with Student Accessibility Services to be eligible for formal academic accommodation. If you are a student who may require academic accommodation and have not registered with Student Accessibility Services, please contact their office at (403) 220-8237; <http://www.ucalgary.ca/access/>. Students will be provided with all necessary accommodations to ensure equal opportunity to succeed in this course. Please provide the instructor your accommodation letter from Student Accessibility Services within 14 days after the start of this course so that all needed arrangements for exams and assignments can be made.

Accommodations on Protected Grounds other than Disability

Students who require an accommodation in relation to their coursework based on a protected ground other than disability, should communicate this need, preferably in writing, to the designated BCR program contact, Mrs. Jennifer Logan (jjlogan@ucalgary), or to Dr. Ebba Kurz, Associate Dean, Undergraduate Health and Science Education, Cumming School of Medicine. Students who require an accommodation unrelated to their coursework or the requirements for a graduate degree, based on a protected ground other than disability, should communicate this need, preferably in writing, to the Vice-Provost (Student Experience). For additional information on support services and accommodations for students with disabilities, visit www.ucalgary.ca/access/.

Academic Misconduct

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.

Cheating, plagiarism, and other forms of academic misconduct are very serious offences that will be dealt with rigorously in all cases. Consequences include failure on the assignment, failure in the course and possibly suspension or expulsion from the BCR program or the University. The Cumming School of Medicine follows a zero tolerance policy regarding dishonesty. **All incidences of academic dishonesty will be reported to the Associate Dean (Undergraduate Health & Science Education) and be recorded in their student records.** The University calendar is explicit about what is construed as academic misconduct and on the appropriate penalties. Students are referred to the "Student Misconduct" sections of the University Calendar for further information.

Recording of Lectures

Audio or video recording of lectures is prohibited except where explicit permission has been received from the instructor.

Other Important Information

Freedom of Information and Protection of Privacy Act

This course is conducted in accordance with the Freedom of Information and Protection of Privacy Act (FOIP) and students should identify themselves on written assignments (exams and term work.) by their name and ID number on the front page and ID on each subsequent page. Assignments given by you to your course instructor will remain confidential unless otherwise stated before submission. The assignment cannot be returned to anyone else without your expressed permission to the instructor. Grades will be made available on an individual basis and students will not have access to other students' grades without expressed consent. Similarly, any information about yourself that you share with your course instructor will not be given to anyone else without your permission.

Appeals

If there is a concern with the course, academic matter or a grade, first communicate with the instructor. If these concerns cannot be resolved, students can proceed with an academic appeal, as per Section I of the University Calendar. Students must follow the official reappraisal/appeal process and should contact the Student Ombuds Office (<http://www.ucalgary.ca/provost/students/ombuds>) for assistance with this and with any other academic concerns, including academic and non-academic misconduct.

Resources for Support of Student Learning and Wellness

Student Success Centre <http://www.ucalgary.ca/ssc/>

Student Wellness Centre <http://www.ucalgary.ca/wellnesscentre/>

Distress Centre <http://www.distresscentre.com/>

Student Ombuds' Office

The Student Ombuds' Office supports and provides a safe, neutral space for students. For more information, please visit www.ucalgary.ca/ombuds/ or email ombuds@ucalgary.ca.

Student Union (SU) Information

The SU Vice-President Academic can be reached at (403) 220-3911 or suvpaca@ucalgary.ca; the SU representatives for the Cumming School of Medicine can be reached at medrep@su.ucalgary.ca.

Safewalk

Campus security will escort individuals, day or night, anywhere on campus (including McMahon Stadium, Health Sciences Centre, Student Family Housing, the Alberta Children's Hospital and the University LRT station). Call 220-5333. Use any campus phone, emergency phone or the yellow phone located at most parking lot pay booths.

