

Western University
Faculty of Law and School of Health Studies
Law 3101A /Health Sciences 3101A
Health Care Law

Instructor:	Professor Jacob Shelley	Course Coordinator:	Professor Christopher Sherrin
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Office:	Law Building Room 21	Office:	Law Building Room 239
Office Hours:	By appointment	Office Hours:	By appointment

TA hours will be posted at the beginning of term

Course Time: Tuesday 5:00pm-6:20pm
Thursday 5:00pm-6:20pm

Location: Natural Science Building, room 145

Course Information

This course surveys the law governing health care professionals and the provision of treatment, counselling and care in Ontario. "Health care professionals" here is defined broadly, but this course will focus on regulated health professionals. Topics covered include: consent, capacity to consent, end-of-life decision making, mental health and the law, negligence, documentation, confidentiality, disclosure, mandatory reporting, and health information privacy. The course is open to all Western undergraduates (other than law students enrolled in the J.D. program).

Course Objectives

This course aims to provide an understanding of the role of law in health care in Ontario. Upon successful completion of the course, students will be able to:

1. Identify the legal foundations of health care in Ontario.
2. Identify the legal duties and rights of health care professionals in Ontario.
3. Understand how the law informs approaches to treatment, including the role of consent, capacity assessments and substitute decision-makers, and to identify how mental health issues impact these domains.
4. Reflect on how the law governs decision-making at the end-of-life.
5. Recognize the obligations of health care professionals with respect to records, reporting, confidentiality and privacy.
6. Identify and analyze when health care professionals may be legal responsible for harms, whether through tort law, criminal law, professional standards, or other legislative requirements.

Course Materials

The required text is Solomon & Shelley, *Health Care Law 3101: Fall Term 2019* (purchase at Western's Book Store). **NOTE: older editions are NOT acceptable.** Students are expected to attend the classes and prepare for them by reading the assigned pages. The reading schedule for each class is available online on the OWL course page and in the following pages of this document.

Professor Shelley would like to thank Professor Solomon for graciously providing his materials for continued use in this course.

In addition to Solomon & Shelley, students may wish to purchase Lorian Hardcastle, *Introduction to Health Law in Canada* (Toronto: Emond, 2019). This text will be an excellent companion, but is not required. A suggested reading list for students that purchase this text will be provided on OWL.

Course Coordinator

The course coordinator is Professor Chris Sherrin (csherrin@uwo.ca). The course coordinator is available by email to answer questions about accommodations, enrolment, evaluations, OWL, and all other administrative matters. The course instructor is not able to answer these types of questions.

Teaching Assistants

There are two Teaching Assistants (TAs), Sara Quinn-Hogan (squinnho@uwo.ca) and Kayla May (kmay24@uwo.ca). They will be available by email (please send to both TAs) to help with any problem related to the course content, and will be monitoring the class bulletin board (Discussion Forums) on OWL. The TAs will hold Office Hours, which will be posted on OWL.

Email

Email is the primary method used to communicate with students outside of class. Be sure to check your email regularly or you may miss important information. Email will be sent to your UWO email address via OWL. If you wish to forward your mail to some other address, make sure you set your UWO account to do so properly. Also, please ensure that your UWO mailbox (and the one being forwarded to) does not get so full that emails are rejected.

IMPORTANT: if you send an email to the instructor, course coordinator or TA, please include "Health Care Law" at the start of the subject line. Email should be the last resort, so please refer to the Discussion Forum on OWL. The class email policy will be discussed at the beginning of term.

OWL

The course page for Health Care Law 3101A is available on OWL. You can log into the course website at <https://owl.uwo.ca/portal>.

Schedule

It is critical that students pay attention to the course schedule, distributed at the start of term. This course will use a series of methods for instruction, including in-class lectures, video lectures, guest lectures, and case discussions. This means that there might not be an in-class lecture. **Pay attention to the schedule.** The final schedule will be posted to OWL at the beginning of the term.

Evaluation

The grades in the course are based on three components: (a) multiple-choice midterm examination in October (worth 35%); (b) multiple-choice final examination in December (worth 55%); and (c) four online quizzes (worth total 10%). There are no other assignments or essays. As required by University rules, students are hereby informed that software will be used to check for unusual coincidences in answer patterns that may indicate cheating.

(a) Midterm Examination (worth 35%)

The two-hour multiple-choice closed-book midterm exam will take place on **Saturday, October 26 at 2:00 pm** in rooms to be confirmed on OWL. The midterm exam will be based on material covered up to the final class before the exam date.

(b) Final Examination (worth 55%)

The two-and-a-half-hour multiple-choice closed-book final exam will take place in December at a date and time set by the Registrar's Office. The final exam is non-cumulative and will have two main sections:

up to 35% of the mark will be based on the materials covered after the midterm examination and up to 20% of the mark will be based on materials drawn from the entire term.

(c) Weekly Quizzes (worth 2.5% each, total 10%)

The quizzes will be based on course readings and lectures and will generally be available for **one week** on OWL as outlined below. Students will **not** have an opportunity to make up any quizzes. The date and material for each quiz is identified below.

- Quiz 1 Thurs, Sept 19 at 6:20pm to Thurs, Sept 26 at 5pm
 (covers readings and lectures from start of classes to Thurs, Sept 19)
- Quiz 2 Thurs, Oct 3 at 6:20pm to Thurs, Oct 10 at 5pm
 (covers readings and lectures from Tues, Sept 24 to Thurs, Oct 3)
- Quiz 3 Thurs, Oct 17 at 6:20pm to Thurs, Oct 24 at 5pm
 (covers readings and lectures from Tues, Oct 8 to Thurs, Oct 17)
- Quiz 4 Thurs, Oct 31 at 6:20pm to Thurs, Nov 14 at 5pm (**two weeks**)
 (covers readings and lectures from Tues, Oct 22 to Thurs, Oct 31)

It is suggested that you check your quiz answers against the course materials before you submit your quiz, because you may submit each quiz only once. You can take as much time as you wish to complete the quiz once you start, but there is a fixed submission deadline for each quiz. In other words, do not confuse the **unlimited time** allowed for completing the quiz with the **limited time period** within which you must submit your completed quiz for academic credit. **No academic credit will be given for quizzes that are submitted after the deadline.** Problems or questions regarding the administration of the quizzes must be directed to the course coordinator, not the instructor.

Final Grade

If necessary, the final grades in the course may be adjusted up or down to comply with the grading norms in the Faculty of Health Sciences. The university-wide descriptor of the meaning of letter grades, as approved by Senate:

A+	90-100	One could scarcely expect better from a student at this level
A	80-89	Superior work that is clearly above average
B	70-79	Good work, meeting all requirements and eminently satisfactory
C	60-69	Competent work, meeting requirements
D	50-59	Fair work, minimally acceptable
F	below 50	Fail

It is expected that the grades for this course will fall between 74 and 78. In the event that the course average falls outside this range, a constant may be added (or subtracted) from each student's grade, by the instructor, to bring the class average in line with school policy.

Statement on Use of Electronic Devices

Electronic devices will be permitted during class time, but discouraged.

Additional Statements

Prerequisites

Unless you have either the requisites for this course or written special permission from your Dean to enroll in it, you may be removed from this course and it will be deleted from your record. This decision

may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites.

Student Code of Conduct

The purpose of the Code of Student Conduct is to define the general standard of conduct expected of students registered at The University of Western Ontario, provide examples of behaviour that constitutes a breach of this standard of conduct, provide examples of sanctions that may be imposed, and set out the disciplinary procedures that the University will follow. For more information, visit <http://www.uwo.ca/univsec/pdf/board/code.pdf> .

English Proficiency for the Assignment of Grades

Visit the website http://www.uwo.ca/univsec/pdf/academic_policies/exam/english.pdf

Accommodation for Medical Illness or Non-Medical Absences

The University recognizes that a student's ability to meet their academic responsibilities may, on occasion, be impaired by extenuating circumstances, including short-term illness or injury. Reasonable academic consideration is a cooperative process between the University, the student, and academic staff. All participants in the process must act in good faith, and fulfil their respective obligations, if it is to succeed.

Students who experience an extenuating circumstance (illness, injury, or other extenuating circumstance) sufficiently significant as to temporarily render them unable to meet academic requirements, may submit a request for academic consideration through the following routes:

1. Submitting a Self-Reported Absence form, provided that the conditions for submission are met;
2. For medical absences, submitting a Student Medical Certificate (SMC) signed by a licensed medical or mental health practitioner, in order to be eligible for Academic Consideration; or
3. For non-medical absences, submitting appropriate documentation (e.g., obituary, police report, accident report, court order, etc.) to Academic Counselling in their Faculty of registration, in order to be eligible for academic consideration.

Students seeking academic consideration:

- Are advised to consider carefully the implications of postponing tests or midterm exams or delaying handing in work;
- Are encouraged to make appropriate decisions, based on their specific circumstances, recognizing that minor ailments (e.g., upset stomach) or upsets (e.g., argument with a friend) are not normally an appropriate basis for a self-reported absence;
- Must communicate with their instructors no later than 24 hours after the end of the period covered by either the self-reported absence or SMC, or immediately upon their return following a documented absence;
- Are advised that all necessary documentation, forms, etc. are to be submitted to academic counselling within two business days after the date specified for resuming responsibilities.

Students who experience an unexpected illness or injury or an extenuating circumstance (48 hours or less) that is sufficiently severe as to temporarily render them unable to meet academic requirements (e.g., attending lectures or labs, writing tests or midterm exams, completing and submitting assignments, participating in presentations) should self-declare using the online Self-Reported Absence portal. This option should be used in situations where the student expects to resume academic responsibilities within 48 hours or less.

The following conditions are in place for self-reporting of medical or extenuating circumstances:

1. Students will be allowed a maximum of two self-reported absences between September and April, and one self-reported absence between May and August;
2. The duration of the excused absence will be for a maximum of 48 hours from the time the Self-Reported Absence form is completed through the online portal, or from 8:30am the following morning if the form is submitted after 4:30pm;
3. The duration of the excused absence will terminate prior to the end of the 48 hour period, should the student undertake significant academic responsibilities (e.g., write a test, submit a paper) during that time;
4. The duration of an excused absence will terminate at 8:30am on the day following the last day of classes each semester, regardless of how many days of absence have elapsed;
5. Self-reported absences will not be allowed for scheduled final examinations; for midterm examinations scheduled during the December examination period; or for final lab examinations (i.e., "bellringers");
6. Self-reporting may not be used for assessments (e.g., midterm exams, tests, reports, presentations, or essays) worth more than 30% of any given course;
7. Students must be in touch with their instructors no later than 24 hours after the end of the period covered by the Self-Reported Absence form, to clarify how they will be expected to fulfil the academic expectations they may have missed.

Attendance

In the School of Health Studies, each course instructor sets specific expectations for attendance and participation that are specific to the course, teaching objectives, and learning outcomes.

Regular attendance is expected and essential for all courses. Participation means not only attendance, but a demonstrated effort to prepare for class by completing assigned readings before class and following the instructor's guidelines for use of electronic devices during class time. Students who miss classes, or parts of classes, are responsible for the material they have missed. Instructors are not obliged to review the contents of missed lectures.

Scholastic Offences

Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following website:
http://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf

Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating. Additionally, all required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>).

Wellness & Support Services

As part of a successful undergraduate experience at Western, we encourage you to make your health and wellness a priority. Western provides several on-campus health-related services to help you achieve optimum health and engage in healthy living while pursuing your degree. For example, to support physical activity, all students receive membership in Western's Campus Recreation Centre as part of

their registration fees. Numerous cultural events are offered throughout the year. Please check out the Faculty of Music web page (<http://www.music.uwo.ca/>), or the McIntosh Gallery (<http://www.mcintoshgallery.ca/>). Further information regarding health and wellness-related services available to students may be found at <http://www.health.uwo.ca/>.

If you are in emotional or mental distress should refer to Mental Health@Western <http://www.uwo.ca/uwocom/mentalhealth/> for a complete list of options about how to obtain help.

To help you learn more about mental health, Western has developed an interactive mental health learning module, found here: https://uwo.ca/health/mental_wellbeing/education/module.html.

There are various support services around campus and these include, but are not limited to:

1. Student Development Centre -- <http://www.sdc.uwo.ca/>
2. Student Health – <http://www.uwo.ca/health/services/students/index.html>
3. Registrar's Office -- <http://www.registrar.uwo.ca/>
4. Ombuds Office -- <http://www.uwo.ca/ombuds/>

(please see the Course Schedule on the following pages)

Course Schedule

This class uses a variety of lecture styles, approaches, and modes to facilitate and enhance student learning and engagement. It is imperative that students pay attention to the schedule, as this will determine whether or not there will be an in-class session.

Two types of classes will be used on a rotating basis throughout the term.

Lecture – in class: These classes will entail an in-depth discussion of legal principles, cases, and contemporary issues. Resembling a traditional lecture, taking place during the schedule class hours in NSB 145, in class lectures will build on video lectures, described next, that will be used at the primary method for delivering the foundational materials.

Video lecture – online: Video lectures will be used to introduce students to major substantive and foundational content. By utilizing videos, students will be able learn the material at their own pace. Videos will be posted at 5pm on the scheduled date. **Students are responsible for all materials on video lectures, as all of this material is testable.** As in-class lectures will build on the videos, students are required to watch the videos prior to the next scheduled class.

All readings are from Solomon & Shelley, 2019. Additional materials may be posted to OWL.

The final schedule will be posted on OWL at the beginning of term.

Date	Class Type	Topic	Readings
September 5	Lecture – in class	Introduction to Course	No Readings
September 10	Lecture – in class	Introduction to Law	Chapter 1: Introduction to Law
September 12	Lecture – in class	Introduction to Law, cont'd	Chapter 1: Introduction to Law
September 17	Video lecture – online	Preliminary Issues	Chapter 2: Preliminary Issues
September 19	Lecture – in class	Preliminary Issues, cont'd	
September 19	Quiz 1 (available until Thurs Sept 26 @ 5pm)		
September 24	Video lecture – online	Consent	Chapter 3: Consent and Capacity (Competency) Chapter 4: Substitute Consent
September 26	Lecture – in class	Consent, cont'd	
October 1	Video lecture - online	Consent, cont'd	Chapter 5: Factors Negating Consent, Treatment Without Consent, and End-of-Life Decision Making
October 3	Lecture – in class	End-of-Life Decision Making	
October 3	Quiz 2 (available until Thurs Oct 10 @ 5pm)		
October 8	Video lecture – online	Mental Health	Chapter 6: Mental Health, Criminal Justice and Civil Commitment
October 10	Lecture – in class	Mental Health, cont'd	
October 15	Video lecture – online	Negligence	Chapter 7: General Principles of Negligence Chapter 8: Standard of Care and Its Breach
October 17	Lecture – in class	Negligence, cont'd	
October 17	Quiz 3 (available until Thurs Oct 24 @ 5pm)		
October 22	Lecture – in class (Guest lecture)	Negligence, cont'd	Readings posted on OWL
October 24	Lecture – in class (Guest lecture)	Negligence, cont'd	Readings posted on OWL

Date	Class Type	Topic	Readings
Saturday October 26	Midterm Exam at 2:00-4:00pm (location to be announced on OWL)		
October 29	Video lecture – online	Affirmative Action	Chapter 9: Duties of Affirmative Action
October 31	Lecture – in class	Affirmative Actions	
October 31	Quiz 4 (available until Thurs Nov 14 @ 5pm – two weeks)		
November 5	<i>Reading Week – No Class</i>		
November 7	<i>Reading Week – No Class</i>		
November 12	Video lecture – online	Documentation	Chapter 10: Documentation and Related Issues
November 14	Lecture – in class	Documentation, cont'd	
November 19	Video lecture – online	Confidentiality & Privilege	Chapter 11: Confidentiality & Privilege Chapter 12: Disclosure of Confidential Information and Related Issues
November 22	Lecture – in class	Confidentiality & Privilege, cont'd	
November 26	Video lecture -	Mandatory Reporting & Duty to Warn	Chapter 13: Mandatory Reporting and the Duty to Warn
November 28	Lecture – in class	Mandatory Reporting & Duty to Warn, cont'd	
December 3	Lecture – in class	Review	
December 5	Lecture – in class (if necessary)	Review	
December __	Final Exam (date, location and time to be announced on OWL)		