OSGOODE PROFESSIONAL DEVELOPMENT

ADVISING THE ELDERLY CLIENT

THE 2016 PRACTICAL GUIDE FOR LEGAL PROFESSIONALS

Gain an in-depth understanding of the unique needs of elderly clients while becoming equipped with essential best practices for providing effective legal advice. You will learn:

- Evaluating capacity: Roles and responsibilities of the lawyer
- When to video record the client interview
- *Carter* – best practices for end of life/advance care planning
- Predatory marriages – dealing with the fall-out of Ontario's loose capacity-to-marry rules
- Undue influence – detecting, proving and dealing with it
- Working effectively with the bank to prevent POA & financial abuse
- Deathbed will changes – what should you do?
- Divorcing with dementia – how do you handle this?
- Fraudulently obtained powers of attorney and possible remedies

Plus! Don't miss the optional Workshop on ***Interviewing the Elderly Client: Best Practices and Practical Tips***

Top legal and medical experts will provide you with practical guidance on working with senior clients

"A MUST SEE PROGRAM FOR ANY PROFESSIONAL WHO DEALS WITH ELDERLY PERSONS."

Georgia Swan
HGR Graham Partners LLP

REGISTER NOW AT OSGOODEPD.CA/ELDERLYCLIENT

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Register for the Conference + Workshop and obtain all your annual LSUC Professionalism hours!

Conference Webcast Available

Chairs

Jane E. Meadus
Staff Lawyer, Institutional Advocate, Advocacy Centre for the Elderly

Charles B. Ticker
Barrister & Solicitor

Location

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Dates and Times

September 28, 2016
9:00 a.m. – 5:00 p.m. EDT
Online Replay: *November 28 2016*

Optional Workshop

September 29, 2016
9:00 a.m. – 12:30 p.m. EDT

Health Leadership & Learning Network
York University Faculty of Health

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OSGOODE HALL LAW SCHOOL
PROFESSIONAL DEVELOPMENT

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Do you have the knowledge and skills you need to effectively advise elderly clients?

As the baby boom generation moves into its senior years, the client base of many legal professionals is shifting. For those who provide legal advice to elderly clients, it's critical to have a current understanding of the latest best practices and issues that frequently affect senior clients and their families. Moving beyond information delivery, you will learn not only the law, but will gain a practical understanding of what to do, and *not* do, in your role as a lawyer.

In this practical and intensive day long program, an outstanding faculty of practicing lawyers and clinicians will teach you the following:

- Update on the state of physician assisted death in Canada
- When should you refer your client to a capacity assessor? How long is a capacity assessment valid?
- Best practices for dealing with the lucid interval
- Will changes - how much documentation do you need?
- Marriage breakdown when one party is in long-term care - what happens now?
- Navigating issues with shared property and joint tenancy
- What are the red flags that financial institutions look for?

Plus! Optional Workshop: ***Interviewing the Elderly Client: Best Practices and Practical Tips***

Chairs

Jane E. Meadus
Staff Lawyer, Institutional Advocate, Advocacy Centre for the Elderly

Charles B. Ticker
Barrister & Solicitor

Faculty

Nimali Gamage
Goodard Gamage Stephens, LLP

Mark Handelman
Firm Counsel, Whaley Estate Litigation

Alexander I.M. Henderson
Oiye/Henderson Barristers & Solicitors

Karen A. Lindsay-Skynner
Barrister & Solicitor

Bernadette Maheandiran
Staff Lawyer, Advocacy Centre for the Elderly

Jane E. Meadus
Staff Lawyer, Institutional Advocate, Advocacy Centre for the Elderly

Terry V. Moore
Senior Counsel, CIBC

Suzana Popovic-Montag
Hull & Hull LLP

Dr. Kenneth I. Shulman
Professor, Department of Psychiatry, University of Toronto

Dr. Richard Shulman
Assistant Professor, Department of Psychiatry, University of Toronto

David Morgan Smith
Hull & Hull LLP

Charles B. Ticker
Barrister & Solicitor

Charles B. Wagner
Wagner Sidlofsky LLP

Kimberly A. Whaley
Whaley Estate Litigation

WHO SHOULD ATTEND

- Legal professionals working in the areas of wills and estates, estate litigation, family law, real estate law, elder law and health law

REGISTER NOW by visiting
osgoodepd.ca/elderlyclient

AGENDA

8:30
Registration and Continental Breakfast

9:00
Welcome and Introduction from the Chairs

9:10
Evaluating Capacity: Roles and Responsibilities of the Lawyer

NIMALI GAMAGE, *Goodard Gamage Stephens, LLP*

DR. KENNETH I. SHULMAN, *Professor, Department of Psychiatry, University of Toronto*

- What are the red flags?
- Understanding your obligations to ask probing questions
- Assessing whether your client has capacity to give instructions
- When should you refuse to take the retainer?
- What do you do when capacity changes during the course of the retainer?
- How do clinicians assess cognition? Why this matters for lawyers

10:00
End of Life and Advance Care Planning in Light of *Carter*

MARK HANDELMAN, *Firm Counsel, Whaley Estate Litigation*

- What do lawyers need to discuss with their clients when drafting a POA for personal care with advance care directives?
- Which medical conditions qualify a patient for assisted death?
- What about capacity?
- What if the patient's application is refused?

10:45
Refreshment Break

11:00
Critical Update on Predatory Marriages & Later Life Partnerships

KIMBERLY A. WHALEY, *Whaley Estate Litigation*

- What is a "predatory marriage" and how are the Courts responding to them?
  - How capacity fits in – Ontario's capacity-to-marry laws
- Are spousal support orders or domestic contracts enforceable after death?
- The most common estate disputes between adult children of previous marriages and the deceased's second (or third) spouse

12:00
Lunch

12:45
Panel Discussion: Dealing with Undue Influence Issues

Moderator:
CHARLES B. TICKER, *Barrister & Solicitor*

Panelists:
DR. RICHARD SHULMAN, *Assistant Professor, Department of Psychiatry, University of Toronto*

DAVID MORGAN SMITH, *Hull & Hull LLP*

CHARLES B. WAGNER, *Wagner Sidlofsky LLP*

- The challenges in proving undue influence
- Detecting undue influence at the will drafting stage
- Grantors gifts to POA – presumption of undue influence
- Best practices for navigating the "minefields" of an estates, family and real estate practice

2:00
Key Issues: Will Challenges

SUZANA POPOVIC-MONTAG, *Hull & Hull LLP*

MARK HANDELMAN, *Firm Counsel, Whaley Estate Litigation*

- Preventing will/POA challenges – when to video record client interviews
- Deathbed changes – what you should do?
- How do you protect your client and yourself?

2:45
Refreshment Break

3:00
Key Issues: Family Law

KAREN A. LINDSAY-SKYNNER, *Barrister & Solicitor*

- Divorcing with dementia – how to obtain "special party status"
- Marriage breakdown – what happens when one party is in long-term care?
- How does divorce affect substitute decision making?

3:30
Key Issues: Real Estate

ALEXANDER I.M. HENDERSON, *Oiye/Henderson Barristers & Solicitors*

- New *Life Lease Act* in Ontario – maybe
- Shared property and joint tenancy
- Granny flats and housing

4:00
Working with Financial Institutions to Prevent Financial and Power of Attorney Abuse

BERNADETTE MAHEANDIRAN, *Staff Lawyer, Advocacy Centre for the Elderly*

TERRY V. MOORE, *Senior Counsel, CIBC*

- Common abuses of powers of attorney and possible remedies
  - Non-compliance with the duty to keep records
  - Allegations of misappropriation of an incapable person's assets
- When does the bank require probate?
- Working with banks to implement remedies: service requirements, preservation orders, tracing orders, and more

5:00
Program Concludes

OPTIONAL WORKSHOP

THURSDAY, SEPTEMBER 29, 2016

9:00 a.m. – 12:30 p.m. (In Person Only)

Interviewing the Elderly Client:
Best Practices and Practical Tips

JANE E. MEADUS, *Staff Lawyer, Institutional Advocate, Advocacy Centre for the Elderly*

Interviewing elderly clients requires a specific skill-set tailored to both enhance the comfort of the interviewee and to elicit required information. This interactive workshop will teach you the fundamental concepts you need to know when interviewing seniors. You will have a chance to practice what you've learned in small groups, where you will work with a fact scenario specifically designed for the workshop. You will learn about:

- Understanding the unique needs and challenges of elderly clients
- Accommodating clients' physical and psychological needs
- Establishing the relationship
  - Who is your client?
  - How to deal with family members who are present
- Strategies for dealing with conflicts of interest with family members
  - The role of collaborative dispute resolution
- What questions should you ask? Practical examples and checklists
- When and how long to interview
- Recognizing and being sensitive to cultural issues
- Assessing the effect of stress
- Pain and fatigue: what to look for

REGISTRATION

Please complete all registrant information.

Advising the Elderly Client
The 2016 Practical Guide for Legal Professionals

I will attend:

Conference: ☐ On site ☐ Webcast ☐ Online Replay Workshop: ☐ On site

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Fee Per Delegate

Conference Only: $595 plus HST
Workshop Only: $395 plus HST
Conference and Workshop: $795 plus HST

Fees include attendance, program materials, continental breakfast, lunch (conference only) and break refreshments. Group discounts are available. Visit www.osgoodepd.ca for details.

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OsgoodePD **has been approved as an Accredited Provider of Professionalism Content by the LSUC.**

Eligible CPD/MCLE hours:

LSUC (ON):
Conference plus Workshop: 10.75 CPD Hours (6.0 Professionalism; 4.75 Substantive)

Conference Only: 7.25 CPD Hours (2.5 Professionalism; 4.75 Substantive)

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OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact **cpd@osgoode.yorku.ca**

Approved For LawPRO Risk Management Credit

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9:00 a.m. – 5:00 p.m. EDT

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Location

Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3
Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less $75 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

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4 Convenient Ways to Register

1. **MAIL** your registration form to:
   Osgoode Professional Development
   Downtown Toronto Conference Centre
   1 Dundas St. W., 26th Floor
   Toronto, ON M5G 1Z3
2. **ONLINE** at
   www.osgoodepd.ca/elderlyclient
3. **FAX** your registration
   to 416.597.9736
4. **CALL US** at 416.597.9724
   or 1.888.923.3394