The Law and Health Care

* Supplementary Readings
* Canadian Charter of Rights and Freedoms (1982)
  + Freedom of conscience and religion
  + Freedom of thought, belief, expression, freedom of the press and other media of communication
  + Freedom of peaceful assembly
  + Freedom of association
* Statutory Law Versus Regulatory Law
  + Statutory
    - Passed in parliament (federal level) or provincial
  + Regulatory law
    - The legally binding feature of an act
    - Made by delegated persons or organizations
      * Agencies & tribunals
* Public and Private Law
  + Public
    - Between the individual and society
  + Private Law
    - Between people or legal entities
* Tort Law
  + Wrongful acts by healthcare providers
  + Negligence
    - Fails to meet standards of care
    - Professional misconduct
      * Behavior that falls short of what would be proper in the circumstances
    - Violating the boundaries of professional-patient relationship
* Elizabeth Wettlaufer
  + Murdered 8 elderly patients but crimes went unknown for a decade
    - 2007-2016
    - Confessed to the police
    - Poisoned with insulin
* Joyce Echaquan
  + An indigenous mother who died in a Quebec hospital after filming abuse from nurses
  + After being given powerful sedatives she died later that day
  + Changes due to this:
* Contract Law
  + Voluntary agreements
* Criminal Law
  + Crimes against people or property
* There are some drug companies that have been given a license to produce and sell cocaine
* Controlled Drugs and Substances Act
* Opioid Crisis
  + Health Canada has called the continuing number of opioid related overdoses and deaths a national crisis.
  + It has sanctioned a number of initiatives to address the problem.
  + 17,602 apparent opioid toxicity deaths between January 2016 and June 2020
  + 1,628 apparent opioid toxicity deaths occurred between April and June 2020, representing the highest quarterly count since national surveillance began in 2016. This number also represents a 58% increase compared to January to March 2020 (1,029 deaths) and a 54% increase from the same time frame in 2019 (1,059 deaths).
  + In 2020 (January to June), 97% of apparent opioid toxicity deaths were accidental (unintentional).
* There is a law that says you have a right to make your medical decisions regardless of your age
  + “An athlete was prescribed fentanyl for many injuries and died at home due to overdose”
* Litigation and the opioid crisis
  + On November 24, 2020, the manufacturers of OxyContin, Purdue Pharmaceuticals, settled on a guilty plea with United States (US) federal prosecutors for their role in the opioid epidemic.
  + They pled guilty to charges of conspiracy to defraud the US, violation of federal healthcare reimbursement laws, and sale of opioids to doctors they suspected of writing illegal prescriptions.
  + The guilty plea provides for over 8 billion USD in forfeitures, which could bring the company’s cost from opioid litigation to as much as 12 billion USD.
* Cannabis (Marijuana)
* Digital Health Canada- Free Membership for Health Information Science Students
  + Take advantage of the career development and learning opportunities Digital Health Canada offers, such as extensive networking and volunteer opportunities, discounts on event registration fees, free access to weekly members-only webinars, discounts on online courses, notification of new job postings, and opportunities to join working
  + How to request your complimentary access to Digital Health Canada:
  + If you are a declared Health Information Science Student (HINF or Combined):
  + Send an email to aim@digitalhealthcanada.com to ask to be added to our School’s roster
  + You will then receive login and password information directly from Digital Health
  + To log in visit digitalhealthcanada.com
* Bill C-77, the Emergencies Act
  + Gave Parliament approval and oversight powers
  + Health emergencies
* End-of-Life Issues
  + Advanced care directives
    - Instructions prepared by a mentally competent individual outlining their wishes concerning health care decisions in the event they can no longer decide for themselves
    - “A mentally competent woman was trapped for 15 years in the healthcare system before she died”
    - “There needs to be a system in place to challenge this”
* Medically Assistance in Dying (MAID) became legal in 2016
  + Health provider administers lethal medication
  + Patient must meet all eligibility criteria
  + Health provider prescribes lethal medication that applicant can self-administer
* Advanced Care Directive
* The Legality of Private Service in Canada
  + Canadians cannot buy insurance for private health
* Informed Consent to Treatment
  + To provide consent:
    - Patient must understand all good and bad parts of the treatment
    - Also must be aware of alternative choices available
  + When doubt exists about a person’s capacity to understand provided information, the healthcare provider must judge whether the person is capable of giving consent
* **Elements of Informed Consent**
  + Informed
    - Patient must understand the
      * Risks
      * Side effects
      * Benefits
      * Expected outcomes
      * Implications of refusing
      * Alternatives to proposed
  + Voluntary
    - Compelled to make a decision for fear of criticism
    - Pressured toward any particular decision
* **Types of Consent**
  + Express consent
    - Written or oral
  + Written consent
    - Must be signed, dated, and witnessed
  + Oral consent
    - Over the phone or in person is equally binding
  + Implied consent
    - Occurs by virtue that an individual seeks care
* Who can give consent
  + A competent person receiving treatment
  + Power of attorney
  + Next of kin
* **Deemed Consent**
  + 2021
  + If you don’t register your organ donation decision, you are “opted in”
* The Health Record
  + Accumulation of information relating to a person’s interaction with health care services
  + You own your own health record and may request a copy for a small fee
* Federal Legislation and Privacy Laws
  + The Privacy Act
    - Limits the private information the federal government can collect
  + Personal Information Protection and Electronic Documents Act (PIPEDA)
    - Protects personal information preserved in the private sector
* Confidentiality
  + HC Providers must legally and ethically keep all health information confidential
    - Doctors
    - Nurses
    - Social workers
    - Physiotherapists
    - Other members of the health care team
    - Administrative personnel
* Electronic Health Information Requirements
  + Both electronic and hard copy records are subject to privacy laws
* Regulated Health Care Professionals
  + All regulated professions have a system in place for dealing with complaints against members
  + Patients who have complaints against health care professionals may launch a legal complaint
  + Every profession has a code of ethics that provides moral and ethical guidelines
* Arts and Health
  + Some universities require new doctors to take an arts class
  + Improves empathy and recovery
  + Reduces the use of pharmaceuticals, stress, and visits
  + Enhances public health promotion
  + Influences policy
  + Can affect the social determinants of health
  + Support child development
  + Encourage health-promoting behaviors
  + Help prevent ill health
  + Support caregiving