



BRITISH COLUMBIA LAW INSTITUTE

1822 East Mall, University of British Columbia

Vancouver, British Columbia V6T 1Z1

Voice: (604) 822 0142 Fax: (604) 822 0144 E-mail: bcli@bcli.org

Website: www.bcli.org

Rationalizing and Harmonization of BC Common-Law Tests of Capacity Project

Call for Volunteers:

Project-Committee Members

Date: 6 October 2011

The British Columbia Law Institute is seeking volunteers to serve on its common-law capacity project committee. If you are interested in serving on the committee, please send us your expression of interest (including curriculum vitae) by **31 October 2011**. If you want some more information about the project and the BCLI's expectations of committee members, please read the background and FAQ that follow.

Background on the project

The British Columbia Law Institute is about to commence a large-scale project to study common-law tests of mental capacity. It is basic law that mental disability or illness does not, in and of itself, leave a person incapable under the law to carry out transactions, enter into relationships, or manage his or her affairs. The law's focus is on the degree of mental disability or illness. If a person's mental illness or disability exceeds in degree a legal threshold, then that person will be considered incapable in the eyes of the law. This legal threshold is commonly called a *test of capacity*.

There is no single, global test of capacity. Instead, the law has developed many different tests of capacity, each geared to specific types of transactions or relationships. Over the past 20 years, British Columbian and Canadian law has seen significant development of legislation relating to mental capacity, which has yielded modern and sophisticated rules on when a person is mentally competent to perform certain tasks or enter into certain transactions. But many areas of the law continue to rely on older common-law tests of capacity, which hold sway in contract law, wills-and-estates law, and family law, among other areas. This project's goals are to study and illuminate selected common-law tests of capacity, to determine where the current law has shortcomings that require modernization or harmonization, and to recommend legislative reforms to address those shortcomings.

FAQ

How long is the project?

The project will last for two years. Under the terms of grants the BCLI has received to carry out the project, it must be completed by 31 September 2013.

What are committee members expected to do?

The primary expectation of committee members is to participate in committee meetings. Committee meetings typically involve considering the how the current law addresses a given legal issue and the policy underlying proposals to reform the law. The goal of these discussions is to arrive at recommendations for the reform of the law.

How long are committee meetings and how often are they held?

Committee meetings are typically two hours long. They are usually held once a month over the life of the project (for example, 4:00 p.m. to 6:00 p.m. on the last Tuesday of the month). Meetings may be somewhat longer or more frequent if needed to review publications to be issued in the project and may be less frequent during the consultation period for the project.

Do committee members have to do any independent research or writing?

No. The responsibility for drafting research materials and the publications issued over the course of the project rests with BCLI staff. Committee members are only asked to bring their expertise to bear in reviewing and commenting on these documents.

Do committee members have to be lawyers?

No. It is only necessary to have an interest in legal issues and legal policy.

Can committee members obtain CPD credit for attending meetings?

Yes. The Law Society of British Columbia has certified the project as group study for the purposes of its continuing professional education program. Committee members can claim CPD credits for the actual time they spend in committee meetings. Under law society rules time spent preparing for meetings is not eligible for CPD credits.

Who can I contact for more information?

Kevin Zakreski
Staff Lawyer
British Columbia Law Institute
(604) 827-5336
kzakreski@bcli.org