The Other Side of the Coin: Personal Care and the Estate Lawyer

Live Webcast

2.75 Substantive Hours
1.25 Professionalism Hours

CPD

Note: New members may apply any program that contains a minimum of **0.5 Professionalism Hours** toward the annual CPD requirement.

Date: Wednesday, October 16, 2013 | 9:00 am to 1:00 pm

Location: Twenty Toronto Street Conferences and Events
(OBA Conference Centre)
20 Toronto Street, 2nd Floor, Toronto

Program Chairs: **Ameena Sultan,** Whaley Estate Litigation
Diane A. Vieira, de VRIES LITIGATION

As Canada's aging population continues to grow, more individuals find themselves attempting to prepare for future decision-making, while family members must grapple with those directions at a time of significant stress. Gain the knowledge and skills you need to help your older clients and their family members prepare for future personal care issues. Learn what must be included in a POA, how to deal with clients with capacity issues and those acting as Attorneys for Personal Care, and what to do if litigation is the only recourse.

8:30 am Registration and Coffee

9:00 am Welcome and Opening Remarks from the Program Chairs

9:10 am **Making it Work: Preparing a POA for Personal Care**

- How to take instructions
- Important considerations in drafting
- Relevant legislation re personal care issues: *Health Care Consent Act, Substitute Decisions Act, Mental Health Act*
- Incorporation with financial issues
- Hard Decisions: End-of-Life care; Choice of Residence; Involuntary Hospitalization for Psychiatric Treatment (the "Ulysses Contract")

Corina Weigl, Partner, Fasken Martineau DuMoulin LLP

10:00 am **Capacity and Personal Care**

- Varying standards for personal care decision-making
- How to deal with clients with capacity issues
- Borderline and fluctuating capacity
- Capacity and the triggering of POAPCs

Angela Casey, Partner, de VRIES LITIGATION
Nimali D. Gamage, Partner,
Goddard Gamage Stephens LLP

10:45 am Networking Break

11:00 am **The Practical Application: Acting as an Attorney for Personal Care**

- Duties of an attorney for personal care and how to assist clients named as attorneys for personal care
- The POA as "prior capable wish" and consulting with the incapable person: balancing autonomy with best interests
- Working with other decision makers, i.e. attorney for property
- Dealing with complicated matters: joint attorneys and decision-making, foreign jurisdiction
- Compensation of an attorney for personal care

Mark Handelman, Firm Counsel,
Whaley Estate Litigation
Kimberly A. Whaley, Principal, Whaley Estate Litigation

12:00 pm **When Matters Get Complicated: Litigating Personal Care Disputes**

- Competing power of attorney documents
- Disputes between (potential) decision-makers
- Abuse of authority by attorneys for personal care
- Access and control to/of incapable persons
- Removal of attorneys and substitute decision-makers
- Strategies for addressing disputes: court, mediation and the Consent and Capacity Board

Mercedes Perez, Swadron Associates
D'Arcy Hiltz, Barrister & Solicitor

12:50 pm Question Period and Concluding Remarks from the Program Chairs

1:00 pm Program Concludes