

**Dr. Joan M. Gilmour**  
**Associate Professor of Law**

**DEGREES:**

1988-1993 Doctor of the Science of Law  
Stanford Law School  
Stanford University, California

1987-1988 Master of the Science of Law  
Stanford Law School  
Stanford University, California

1975-1978 Bachelor of Laws  
Faculty of Law  
University of Toronto  
Toronto, Ontario

1970-1973 Bachelor of Arts  
1974-1975 St. Michael's College  
University of Toronto  
Toronto, Ontario

**EMPLOYMENT HISTORY**

**PRESENT POSITION**

1994 - present Associate Professor  
Osgoode Hall Law School  
York University  
Toronto, Ontario

2003-present Director  
LL.M. Program in Health Law  
York University  
Toronto, Ontario

**PREVIOUS POSITIONS**

1999 - 2000 Associate Director and 1998 - 1999 Acting Director  
1997 - 1998 Centre for Health Studies Centre for Health Studies  
York University York University  
Toronto, Ontario Toronto, Ontario

- 1995 - 1996 Director, Institute for Feminist Legal Studies  
Osgoode Hall Law School  
York University  
Toronto, Ontario
- 1990 - 1994 Assistant Professor  
Osgoode Hall Law School  
York University  
Toronto, Ontario
- 1980-1987 Shibley, Righton & McCutcheon  
Toronto, Ontario  
Engaged in private practice of law, specializing in civil litigation and administrative law, with a particular focus on health law
- 1978-1979 Nelligan/Power  
Ottawa, Ontario  
Articling student. Concentration on civil litigation and labour law

## **ACADEMIC HONOURS**

- 2004 Osgoode Hall Law School Research Fellowship
- 2003-present Associate Scientist, Complementary and Alternative Research and Education Program, University of Alberta and Capital Health Region, Alberta
- 2001-2005 Adjunct Scientist, Hospital for Sick Children, Toronto
- 1988-1989 Social Sciences and Humanities Research Council of Canada Fellowship
- 1987-1988 Laidlaw Fellowship for Advanced Studies in Law

## **SCHOLARLY and PROFESSIONAL ACADEMIC ACTIVITIES (1999-2006)**

### **INVITED PRESENTATIONS 1999-2006**

“Patient Safety, Medical Error and Tort Law: An International Comparison”, American Society of Law, Medicine and Ethics 30th Annual Health Law Teachers’ Conference, Baltimore, Md., June 3, 2006.

“Legal Frameworks, Medical Error and Patient Safety: An International Comparison”, Canadian Law and Society Association, Congress of the Humanities and Social Sciences, Toronto, Ontario, June 1, 2006.

“Legal Frameworks, Medical Error and Patient Safety: An International Comparison”, Rockefeller Foundation, Bellagio Conference and Study Center, Italy, April 3, 2006.

“The Multiple Meanings of Causation”, Health Law at the Supreme Court of Canada Third National Health Law Conference, Halifax, February 24, 2006.

“Decision-Making About Complementary and Alternative Therapies for Children and Youth: Legal, Ethical and Clinical Issues”, Canadian Interdisciplinary Network for Complementary and Alternative Medicine Research Second Annual Symposium, “CAM Research in Canada”, Toronto, Nov. 13, 2005.

“Legal Frameworks, Medical Error and Patient Safety: An International Comparison”, International Society for Quality in Health Care International Conference, Vancouver, B.C., Oct. 28, 2005.

“After “*Chaouilli*: Is It Time to Take Cover?”, Osgoode Hall Law School, *Chaouilli* and the Restructuring of Health Care in Canada” Conference, Toronto, October 26, 2005.

“Deciding to Use Complementary and Alternative Medicine with Children”, Canadian Bioethics Society Annual Conference, Halifax, October 22, 2005.

“Children and Complementary and Alternative Medicine: Legal, Ethical and Clinical Issues”, Advanced Food and Materials Network, Functional Foods, Nutraceuticals and Natural Health Products” Conference, Montreal, October 4, 2005.

“Authority, Autonomy and Risk: Complementary and Alternative Medicine and Children”, Canadian Law and Society Association “Law’s Empire” Conference, Harrison Hot Springs, British Columbia, June 28, 2005.

“Comment: The Charter and Health Care”, 2004 Constitutional Cases Conference, Osgoode Hall Law School, Toronto, April 15, 2005.

“Restructuring, Poverty and Women’s Health: The Role of Access to Justice”, 7<sup>th</sup> World Congress of Bioethics, International Association of Bioethics, Sydney, Australia, November 11, 2004.

“Responsibility for Medical Error in Law and Ethics”, Atkinson Brownbag Research Seminar Series, York University, March 30, 2004.

“Health Care Providers: The Many Faces of Conflict of Interest”, Access and Allocation in Health Care: Who Gets It? Who Decides” Conference, Faculty of Law, University of Toronto, January 24, 2004.

“Responsibility for Medical Error in Law and Ethics”, Joint Meeting of the American Society for Bioethics and Humanities and the Canadian Bioethics Society, “Bioethics Beyond Borders”, Montreal, Quebec, October 26, 2003.

“Canadian Reflections on Women, Health and Restructuring in the Global Context”, Forum on Globalization, Health and the Ethics of Care, York University, Toronto, October 23, 2003.

“Legal Constructions of Gender and Disability” (with R. Mykitiuk and C. Frazee), Critical Disabilities Program (joint session of the Canadian Association of Law Teachers and the Canadian Law and Society Association), Halifax, Nova Scotia, June 4, 2003.

“Regulation of Free-Standing Health Facilities: An Entrée for Privatization in Health Care”, Health Law and Policy Workshop, Faculty of Law and Department of Health Policy, Management and Evaluation, University of Toronto, Toronto, April 24, 2003.

“Regulation of Complementary and Alternative Medicine: Public Protection or Turf War?”, Health Law Institute, Dalhousie University, Halifax, Nova Scotia, February 28, 2003.

“Legal Values, Liability and Governance: Effects on Health Systems Injury”, Policy Division, Health Canada, Ottawa, November 8, 2002.

“Regulation of Free-Standing Health Facilities: An Entrée for Privatization in Health Care”, Precedent and Innovation: Health Law in the 21st Century Conference, Health Law Institute, University of Alberta, Edmonton, Alberta, September 29, 2002.

“The Legal Construction and Regulation of the Gendered Body and Disability in Health Law and Policy” (with Roxanne Mykitiuk) Gender, Sexuality and Law II International Conference, Keele University, United Kingdom, June 28, 2002.

“Women’s Poverty, Women’s Health: The Role of Access to Justice” (with D. Martin), Joint Meeting, Law & Society Association and Canadian Law and Society Association, Vancouver, B.C., May 30, 2002.

"Creeping Privatization in Health Care: Implications for Women as the State Redraws Its Role", Centre for Health Economics and Policy Analysis, McMaster University, Hamilton, April 17, 2002.

"Legal Regulation of Natural Health Products", Atkinson College Brown Bag Research Seminar Series, York University, Toronto, April 2, 2002.

"Women's Poverty, Women's Health: The Role of Access to Justice" (with D. Martin), National Association of Women and the Law 14th Biennial Conference, "Women, the Family and the State", Ottawa, March 8, 2002.

"Regulation of Complementary and Alternative Health Care: Goals, Legal Frameworks, Implementation", Health Canada Roundtable on Health Law and Ethics in Complementary and Alternative Health Care and Natural Health Products, Toronto, December 1, 2001.

"Regulating Providers of Complementary and Alternative Health Care", Massage Therapy Research Day, Kikkawa College, Toronto, May 5, 2001.

"Creeping Privatization in the Health Care System: Implications for Women in State Re-engineering of its Role", Conference on Feminism, Corporations, and Capitalism: Policy and Protest, Baldy Center for Law and Social Policy, SUNY Buffalo Law School and the Feminism and Legal Theory Project at Cornell Law School, Buffalo, April 21, 2001.

"Legal Regulation of Health Systems: Torts, Data Privacy and Governance", invited presentation, Centre for Health Economics and Policy Analysis of McMaster University and Health Canada, Hamilton, March 29, 2001.

"Regulators, CAM and Evidence Bases: Shifting Sands and Buried Conflicts", Invitational Workshop on Complementary and Alternative Medicine: The Question of Appropriate Evidence Bases", York University Centre for Health Studies and Tzu Chi Institute for Complementary and Alternative Medicine, Toronto, September 24, 2000.

"Unregulated Practitioners and Self-Regulating Professions", invited presentation, Ontario Health Professions Regulatory Advisory Council, Toronto, June 28, 2000.

"Shifting Sands, Buried Conflicts: The Legal Regulation of Providers of Alternative and Complementary Health Care in Canada", American Society of Law, Medicine and Ethics, 21st Annual Health Law Teachers Conference, Case Western Reserve University, Cleveland, Ohio, June 9, 2000.

"Public Protection vs. Freedom of Consumer Choice: Dealing with the Unregulated Practitioner", Seminar on New Directions in Professional Regulation, Toronto, May 30, 2000.

"Health Law", Canadian Bar Association – Ontario, Feminist Legal Analysis Section, "The Millennium Challenge to Feminism: Privatization and the Erosion of the Public Good", Toronto, March 25, 2000.

"Exploring Population Health: Complementary and Alternative Health Approaches", invited presentation, Health Canada, Ottawa, November 24, 1999. "Privatization in Health Care: Implications for Women", Canadian Law and Society Association, Congress of the Social Sciences and Humanities, Sherbrooke, Quebec, June 9, 1999.

"Creeping Privatization in the Health Care System: Implications for Women in State Re-engineering of its Role", Health Law and Policy Seminar Series, University of Toronto, November 26, 1999 and Institute for Feminist Legal Studies, Osgoode Hall Law School, January 27, 1999.

#### SERVICE

Health Canada, Health Policy Research Program, Peer Review Committees (Chair; 2005; Member, 2004)

Expert Witness, Canadian Union of Public Employees v. Canada, [2004] F.C.J. 1582.

Canadian Institutes for Health Research, Invited Member, Health Ethics, Law and Humanities Grants Committee, 2000-2003.

Canada Research Chairs Program, Invited Member, College of Reviewers, 2001-present.

Health Canada, Natural Health Products Directorate Working Group on Health Promotion, Invited Member 2002-2003.

## GRADUATE SUPERVISIONS

### CAREER NUMBERS:

|            |                         |                                    |
|------------|-------------------------|------------------------------------|
| Supervisor | Masters:                | 17 complete; 1 in progress         |
|            | Doctoral:               | 1 complete; 1 in progress          |
|            | Supervisory Committees: | Masters: 1 complete; 1 in progress |
|            |                         | Doctoral 1 complete; 2 in progress |

### DETAILS

1998-2000 Doron, Israel (D. Jur. awarded November, 2000);  
Thesis: "From Guardianship to Long-Term Legal Care: Law and Caring for the Elderly"

1998-2004 Balakrishnan, Shanthy (LL.M. awarded 2004); Thesis:  
"Patent Rights Vs. Patient Rights: Lessons from the AIDS Drug  
Case"

1997-2001 Sutton, Wendy (LL.M. awarded November, 2001);  
Thesis: "The Social Union Framework Agreement: Medicare in the  
(Re)balance?".

## MAJOR RESEARCH PAPER (LL.M.) SUPERVISIONS

2004-2006 (Health Law)

Vassili Apostolopoulos, "The Word That Causes Death's Defeat: The  
Moral Significance of Physician-Assisted Suicide, Autonomy and Intention"

Lorenzo Di Cecco, "Canada and Sweden: Health Care in the Political,  
Socio-Economic Contexts: What Can We Learn From Each Other?"

Fannie Dimitriadis, "A Review of Selected Aspects of Ontario's Personal  
Health Information Protection Act: Considering Their Impact on the  
Patient-Health Care Provider Relationship"

Rebecca Durcan, "Is There a Doctor In The House? Examining the  
Physician Shortage in Canada".

Stella Harmantas, "A Study of the Significance of the *Chaoulli* Decision  
And Its Potential Impact On Health Related Class Actions"

Rosalie Minkowitz, "Canada's Health Care: *Chaoulli*, A Catalyst for  
Change".

2000 (Criminal Law)

Flood, John, "The Disclosure of Personal Records in Sexual Violence  
Proceedings: Can *Mills* Attain its Promise for Women and Victims'  
Rights?"

1998-200; 2003-2004 (Constitutional Law)

Daley, Krista, *Charter* Analysis of the Financial Requirements for  
Sponsorship of a Family Member under the *Immigration Act*

Go, Avvy, "A Critical Race Analysis of the 'Danger to the Public' Provisions  
under the Immigration Act"

Levine, Roslyn, "Let the Record Show: The History and Chronology of s.  
278.1 *et seq* of the Criminal Code"

Case, Patrick, "Equality Rights and the Court Challenges Program in Canada".

1999-2000 (Administrative Law)

Bernhardt, Kim, "Revisiting Seneca College v. Bhadauria: Is It Time to Address Discrimination Through the Courts?"

Gold, Stephen, "Administrative Tribunals and the Duty to Give Reasons"

## **GRADUATE COURSES**

2006-2007 Legal Frameworks of the Canadian Health Care System (LL.M. in Health Law)  
Disability and the Law (M.A. in Critical Disability Studies)

2004-2005 Disability and the Law (M.A. in Critical Disability Studies)

2003-2004 Legal Frameworks of the Canadian Health Care System (LL.M. in Health Law)  
Professional Governance (LL.M. in Health Law)

2000-2001 Administrative Law in Context; Professional Regulation (LL.M. Programme in Administrative Law)

1999-2000 Whose Case Is It? Studies in Conflicting Rights and Privileging Expertise and Knowledge (LL.M. Programme in Criminal Law)

1998-1999 Administrative Law in Context: Social Regulation (Professional Regulation and Human Rights Units) (LL.M. Programme in Administrative Law)

## **EXTERNAL RESEARCH FUNDING**

Co-Investigator, "Beyond the Margins of (Dis)ability: Enabling Women with Disabilities to Achieve Health", Social Sciences and Humanities Research Council, 2004-2007  
(Principal Investigator: Roxanne Mykitiuk) (3 grantees) \$87,000.00

Principal Investigator, "Incentives and Disincentives to Reducing Error and Increasing Patient Safety in Tort Law: An International Comparison", Health Policy Research Program, Applied Research and Analysis Directorate, Health Canada, 2004-2007.  
\$132,600.00

Principal Investigator, "Decision-making About Complementary and Alternative Therapies for Children and Youth: Legal, Ethical and Clinical Issues", Hospital for Sick Children Foundation, 2003-2006. (3 grantees) \$125,500.00

Project Leader, "Complementary and Alternative Medicine: The Question of Appropriate Evidence Bases", SSHRC/MRC/NSERC Tricouncil Networking/Workshop Grant, "Getting Ready for CIHR" 1999-2000. \$30,000.00 (SSHRC)  
\$ 5,000.00 (Health Canada)

Principal Investigator, "Restructuring, Poverty and Women's Health: The Role of Access to Justice", National Network on Environments and Women's Health, 1999-2002. (2 grantees) \$29,640.00

Project Leader, York University Centre for Health Studies, *Complementary and Alternative Health Practices and Therapies – A Canadian Overview*, Health Canada, 1998-1999 \$100,000.00

Co-Investigator, "The Legal Regulation of the Gendered Body and Disability," National Network on Environments and Women's Health (one of the federally funded Centres of Excellence in Women's Health), 1998-2002 (Principal Investigator: Roxanne Mykitiuk, York University) (3 grantees) \$22,000.00

## INTERNAL RESEARCH FUNDING

Osgoode Hall Law School Research Fellowship, 2004 (Teaching Release)

SSHRC Travel Fund Grant to attend and present at Gender, Sexuality and Law II conference, Keele University, United Kingdom, 2002. \$800.00

## PUBLICATIONS

|                             | <b>Life-Time Summary:</b> | Book      |
|-----------------------------|---------------------------|-----------|
|                             | Chapters                  | 8         |
| Reports & Monographs        | 2                         |           |
| Papers in Refereed journals | 10                        |           |
| Conference Papers presented | 62                        | Abstracts |

## PUBLICATION DETAILS (1999 - 2006)

### a. BOOK CHAPTERS; CD ROM'S

"Limits of the Law: Legal Challenges to the Health Services Restructuring Commission", in Goyette, D., Magill, D., and Dennis, J. (eds.), *Survival Strategies: The Birth, Demise and Renaissance of a Canadian Teaching Hospital*, (Toronto: Canadian Scholars' Press, 2006), 353-382.

"Now You See Her, Now You Don't: How Law Shapes Disabled Women's Experience of Exposure, Surveillance and Assessment in the Clinical Encounter" (with C. Frazee and R. Mykitiuk) in Dianne Pothier and Richard Devlin (eds.) *Clinical Disability Theory:*

*Essays in Philosophy, Politics and Law* (Vancouver: U. British Columbia Press, 2006), 223-247.

“Women’s Poverty, Women’s Health: The Role of Access to Justice” (with D. Martin) in Van Esterik, P. (ed.) *Head, Heart and Hand: Partnerships for Women’s Health in Canadian Environments* (Toronto: National Network on Environments and Women’s Health, 2003), 353-381.

“Children, Adolescents and Health Care”, in Downie, J., Caulfield, T., and Floor, C. (eds.), *Canadian Health Law and Policy* (2<sup>nd</sup> ed.) (Toronto: Butterworths, 2002), 202-250.

“Death and Dying” in M.J. Dykeman (ed.), *Canadian Health Law Practice Manual* (looseleaf ed.) (Toronto: Butterworths, 2002), 8.1 - 8.85.

“Creeping Privatization in Health Care: Implications for Women as the State Redraws Its Role”, in B. Cossman and J. Fudge (eds.), *Privatization, Law and the Challenge to Feminism* (Toronto, University of Toronto Press, 2002), 267-310.

“Death and Dying” in Dykeman, M.J. (ed.) *Canadian Health Law Practice Manual* (Toronto: Butterworths, 2000).

“Minors” in Downie, J. and Caulfield, T. (eds.) *Canadian Health Law and Policy* (Toronto: Butterworths, 1999).

#### **b. REPORTS AND MONOGRAPHS**

*Patient Safety, Medical Error and Tort Law: An International Comparison* (May, 2006) (prepared for Health Policy Research Program, Health Canada), online at: <http://www.osgoode.yorku.ca/faculty/joanmgilmour.html>, 202 pp.

*Complementary and Alternative Health Practices and Therapies — A Canadian Overview* (with R. Achilles, N. Adelson, P. Antze, L. Biggs, P. Chabot, P. Jensen, J. Muldoon) (1999) (prepared for Health Canada).

#### **c. ARTICLES**

“Fallout from *Chaouilli*: Is It Time to Find Cover?” (2006) 44 Osgoode Hall Law Journal, 327-347.

“Pediatric Use of Complementary Therapies: Ethical and Policy Choices” (with M. Cohen, K. Kemper, L. Stevenson and D. Hashimoto) (2005) *Pediatrics Electronics* Pages, available online at: <http://pediatrics.aappublications.org>.

“Regulating Free-Standing Health Facilities: An Entrée for Privatization and For-Profit Delivery in Health Care” (2003) *Health L.J. (Special Edition)* 131-152.

“Opening the Door to Complementary and Alternative Medicine: Self Regulation in Ontario” (with M. J. Kelner and B. Wellman), (2002) 24 *Law and Policy* 149-174 .