

## Overcoming Medical Inadmissibilities in Immigration Applications

**Course Summary:** This course will provide an in-depth discussion of how to address medical inadmissibility in immigration applications. The instructor will review the legislative grounds for medical inadmissibility and how they are defined in IRCC policies and relevant jurisprudence. Procedural remedies in order to overcome medical inadmissibility will be discussed as well as certain applications that are exempt from medical inadmissibility findings.

### **Course Outline:**

#### 1. Legislative structure

- Overview of statutory provisions governing medical admissibility
- The requirement to undergo medical examinations
- The medical assessment
- Section 38 of *IRPA* – three (3) grounds of medical inadmissibility: danger to public health; danger to public safety; and excessive demand
- When does medical inadmissibility arise?
- An overview of the inadmissibility report process

#### 2. Danger to public health

- Overview of IRCC policy on “danger to public health”
- Brief overview of jurisprudence (IRB and Federal Court)

#### 3. Danger to public safety

- Overview of IRCC policy on “danger to public safety”
- Brief overview of jurisprudence (IRB and Federal Court)

#### 4. Excessive demand

- Overview of IRCC policy on “excessive demand”
- Definition of “health and social services” – what is included and when?
- The new “cost threshold” – updates and “temporary public policy”

- Jurisprudence on excessive demand
  - *Hilewitz v. Canada (Minister of Citizenship and Immigration); De Jong v. Canada (Minister of Citizenship and Immigration)*, [2005] 2 S.C.R. 706, 2005 SCC 57 [*Hilewitz*]
  - Applying *Hilewitz* since 2005
- Case study: applying the *Hilewitz* analysis
- The ‘mitigation plan’ – principles and practical tips

## 5. Procedural fairness and medical inadmissibility

- Basic principles of procedural fairness
- Basic tips on preparing an effective response to ‘procedural fairness letters’
- Case study: preparing an outline for a procedural fairness letter based on a practical scenario

## 6. Exceptions to medical inadmissibility

- Refugees and dependents
- Protected persons
- Certain members of the Family Class

## 7. ‘Remedies’ for medical inadmissibility

- Temporary Resident Permit (‘TRP’)
- Permanent Residence as TRP Holder
- Humanitarian and Compassionate (‘H&C’) relief
  - Stand-alone H&C application
  - H&C request within context of existing permanent residence application