



# THE OSGOODE CERTIFICATE IN WORKPLACE MENTAL HEALTH LAW

November 6, 7, 13 & 14, 2017

Learn how to manage the legal risks in this challenging area, while maintaining a psychologically safe working environment.

- Employers' Duty of Care
- Meeting the Duty to Accommodate Mental Health Disabilities
- Workplace Harassment and Mental Distress
- Employment Policies, Attendance Management and more!

Register today at:

[osgoodepd.ca/work-mhealth](http://osgoodepd.ca/work-mhealth)

PROGRAM DIRECTOR

**Lauren Bernardi**

Bernardi Human Resource  
Law LLP

LOCATION

**Osgoode Professional  
Development**

**1 Dundas St. West,  
26th Floor, Toronto, ON**



Human Resources  
Professionals  
Association

Health Leadership  
& Learning Network



# *The Osgoode Certificate in Workplace Mental Health Law* draws on the expertise of a distinguished interdisciplinary faculty, including:

## Program Director



**Lauren Bernardi**

Bernardi Human Resource Law LLP

## Advisory Board

**Donna Hardaker**

Director Wellness Works, Mental Health America of California (MHAC)

**Sapna Mahajan**

Director, Prevention and Promotion Initiatives, Workplace, Mental Health Commission of Canada

**Sari Sairanen**

National Director, Health and Safety, Unifor

**Dr. Martin Shain, S.J.D.**

Founder and Principal, Neighbour at Work Centre™ & Adjunct Lecturer, Occupational and Environmental Health Division, Dalla Lana School of Public Health, University of Toronto

## Program Faculty

**Terri Aversa**

Senior Health and Safety Officer, OPSEU

**Mary Ann Baynton**

Mary Ann Baynton & Associates

**Dr. Ash Bender, MD, FRCP (C)**

Occupational Psychiatrist and Assistant Professor, Faculty of Medicine, University of Toronto; Staff Psychiatrist, Centre For Addiction & Mental Health (CAMH)

**Daniel Chodos**

Whitten & Lublin Professional Corporation

**Dr. Ian C. Dawe, MHSc, MD, FRCP (C)**

Program Chief and Medical Director, Mental Health Service, Trillium Health Partners & Associate Professor, Department of Psychiatry, University of Toronto

**Yvone Defreitas, CHRP**

Director of Human Resources and Organizational Effectiveness, Canadian Centre For Occupational Health and Safety (CCOHS)

**Barry B. Fisher**

Barry Fisher Arbitration and Mediation

**Maria Gergin**, Borden Ladner Gervais LLP

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**N. Anneli LeGault**

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**Sapna Mahajan**

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**Deanna Matzanke**

Director, Client Services, Canadian Centre For Diversity and Inclusion

**Shaun O'Brien**

Cavalluzzo Shilton McIntyre Cornish LLP

**John Oudyk, CIH, ROH**

Occupational Hygienist, Occupational Health Clinics For Ontario Workers Inc.

**Asha Rampersad**

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**Melanie L. Reist**

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**Meaghan A. Russell**

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**Natasha Savoline**

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**Dr. Martin Shain, S.J.D.**

Founder and Principal, Neighbour at Work Centre™ & Adjunct Lecturer, Occupational and Environmental Health Division, Dalla Lana School of Public Health, University of Toronto

**Drew Sousa, RN COHN (C)**

Manager, Employee Health Services, Corporate Services Department, Human Resources Division, City of Mississauga

**Andrea Stoddart**

Israel Foulon LLP

# The Osgoode Certificate in Workplace Mental Health Law

The management of employee mental health issues has emerged as one of the most difficult and widespread challenges confronting today's workplaces. As the Mental Health Commission of Canada notes:

- 500,000 Canadians in any given week are unable to work owing to mental health problems
- 1 in 3 workplace disability claims are related to mental illness
- 70% of disability costs are attributed to mental illness.

A complex network of laws presents a potential minefield of difficulties for employers. Navigating these successfully and keeping the workplace healthy and productive is, in the Commission's words, 'simply smart business'.

This Certificate program from *OsgoodePD* unites up-to-date explanations of the relevant law with the latest clinical insights and realistic best practices. Taught by an interdisciplinary faculty of experts, it provides you with a unique opportunity to drill down into the key issues that are likely to come across your desk, and to formulate strategies for handling them successfully. You'll also receive printed materials (including toolkits and precedents) – a resource of ongoing practical value.

## What You Will Learn

- How employers' duty of care regarding employees' psychological wellbeing is undergoing transformation
- How to recognize signs and symptoms of common workplace mental health problems
- How to have the conversation when you are concerned about an employee's mental health
- Privilege, privacy and confidentiality requirements
- Claims for traumatic stress: how to minimize the risks
- How to repair a toxic workplace
- The scope of duties imposed by the Ontario Human Rights Code in the area of mental health
- How the process of accommodation differs when mental health issues are involved
- Effective and legally-compliant approaches to addressing employee substance abuse problems
- Managing the performance of employees with psychological disorders, including attendance management
- Crafting return-to-work plans after mental-health-related absences

## Who Should Attend?

- HR professionals/executives, supervisors and managers
- VPs/directors/managers of human resources/labour relations
- Health and safety professionals
- Disability and return-to-work managers
- Union representatives
- HR and labour relations consultants
- Mediators and arbitrators of employment and labour disputes

# Agenda

Across four intensive, one-day modules, the components of workplace mental health law will be explored by a multi-disciplinary faculty with many years of experience in a broad variety of workplaces. Classes will include interactive discussions and case studies. Practical approaches and solutions will be emphasized throughout.

**DAY 1: November 6, 2017**  
**9:00 a.m. to 4:00 p.m.**

## Do Employers Have An Increasing Legal Duty of Care for Psychological Wellbeing?

- The interplay between various employment and labour laws and workplace mental health
- Is there an implied term in all employment agreements for psychological protection?
- Do employers have a duty to prevent harm under occupational health and safety laws?
- Does the existence of the voluntary *National Standard for Psychological Health and Safety in the Workplace* create a default standard by which the courts will measure employers?

## Accommodating Mental Health Disabilities in the Workplace

- The scope of the duty to accommodate and the process of accommodation: different in the mental health context?
- The role and impact of the Ontario Human Rights Code in this area
- The employee's duty to disclose
- Do employers have a duty to inquire?
- Privacy rights and medical information – what can and should you ask for?
- How should the medical information be assessed and by whom?

## WSIB and Mental Disability Claims

A WSIB policy limiting mental stress entitlements to those who have experienced traumatic stress at work has been found unconstitutional.

- Does this open the floodgates to more such claims?
- How can and should employers protect themselves from claims related to chronic workplace stress?

## Faculty

**Daniel Chodos**, Whitten & Lublin Professional Corporation

**Barry B. Fisher**, Barry Fisher Arbitration and Mediation

**N. Anneli LeGault**, Dentons Canada LLP

**Asha Rampersad**, Bernardi Human Resource Law LLP

**Dr. Martin Shain, S.J.D.**, Founder and Principal, Neighbour at Work Centre™ & Adjunct Lecturer, Occupational and Environmental Health Division, Dalla Lana School of Public Health, University of Toronto

**DAY 2: November 7, 2017**  
**9:00 a.m. to 4:00 p.m.**

## Mental Illness and Disability: Their Impact on the Employment Relationship

Fulfilling the legal duties applicable to workplace mental health law first requires an appropriate awareness of mental illness and disability. This area is notoriously beset by fear and stigma, with the result that employers often assume that managing mental health issues will be more costly and difficult than it actually is. Mental health awareness dispels the stigma and provides a realistic basis for supporting and accommodating employees with mental health concerns.

- Recognizing signs and symptoms of common workplace mental health problems
- How to have the conversation with the employee
- What to do if you believe the employee is not aware that he or she has a mental health issue

- When EAP isn't the answer to everything: what other resources are available?

## Workplace Harassment and Mental Health

Harassment negatively impacts the mental health not only of the harassed individuals, but of everyone around them. Moreover, those who live with mental illness and disability are often particular targets of workplace abuse. This session explores

- Employers' legal duties relating to harassment allegations
- The interplay between harassment and mental health
- The impact of toxic workplaces on employee mental health
- How to prevent or repair a toxic workplace

## Mental Distress Claims

Emotional abuse can have more long-lasting and serious effects even than physical abuse—a reality which has a significant potential impact on damage claims, harassment complaints and wrongful dismissal actions.

- Are employers liable for negligent or intentional infliction of mental harm during the employment relationship and when it ends?
- Trends in the case law on damage awards

## Faculty

**Dr. Ian C. Dawe, MHSc, MD, FRCP (C)**, Program Chief and Medical Director, Mental Health Service, Trillium Health Partners & Associate Professor, Department of Psychiatry, University of Toronto

**Shaun O'Brien**, Cavalluzzo Shilton McIntyre Cornish LLP

**Melanie L. Reist**, Morrison Reist

**Meaghan A. Russell**, Filion Wakely Thorup Angeletti LLP

**Natasha Savoline**, Bernardi Human Resource Law LLP

**DAY 3: November 13, 2017**  
**9:00 a.m. to 4:00 p.m.**

## Addressing Substance Abuse Problems

- Can you require an employee living with an addiction to undergo testing and/or counselling?

- Are last chance agreements discriminatory?
- Undue hardship and safety issues

### Employment Policies, Job Design and Management Systems

- Managing the performance of employees with psychological disorders
- Helping employees with mental health conditions thrive in their jobs
- Inclusive policy language and appropriate functional abilities forms

### Strategies for Attendance Management for Mental Illness and Disabilities

- Communicating appropriately during attendance management meetings
- Inclusive attendance management policies that appropriately consider mental health

### Early and Successful Return to Work After a Mental Health Related Absence

- How to support an employee on a mental-health-related leave
- How to work with the employee's physician
- How to reduce stigma and resentment from co-workers
- Impact of LTD on an employee's ability to return to work

### Faculty

#### Dr. Ash Bender, MD, FRCP (C),

Occupational Psychiatrist and Assistant Professor, Faculty of Medicine, University of Toronto; Staff Psychiatrist, Centre For Addiction & Mental Health (CAMH)

**Yvone Defreitas**, CHRP, Director of Human Resources and Organizational Effectiveness, Canadian Centre For Occupational Health and Safety (CCOHS)

**Bernard King**, Staff Representative, OPSEU – Region 5 Toronto

**Deanna Matzanke**, Director, Client Services, Canadian Centre For Diversity and Inclusion

**Drew Sousa, RN COHN (C)**, Manager, Employee Health Services, Corporate Services Department, Human Resources Division, City of Mississauga

**Andrea Stoddart**, Israel Foulon LLP

**Day 4: November 14, 2017**  
**9:00 a.m. to 4:00 p.m.**

### Due Diligence Strategies to Reduce Legal Liability and Promote Workplace Health: How Unions, Health and Safety Committees, Occupational Health Nurses and Employers Can Effectively Work Together

Addressing employee mental health issues provides one of the few contexts in which the interests of all parties are aligned. The opportunity for a collaborative dynamic can assist not only in meeting the requirements of the particular case, but in achieving a healthier, less adversarial and more fruitful workplace culture. This session will explore how the parties can best combine their expertise and meet their respective legal and professional obligations.

### Implementing the National Standard for Psychological Health and Safety in the Workplace

Developed by the Canadian Standards Association and the Bureau de normalisation du Québec, the National Standard is a groundbreaking 'voluntary set of guidelines, tools and resources focused on promoting employee's psychological health and preventing psychological harm due to workplace factors' (Mental Health Commission of Canada). This session will equip you to fully understand and utilize this powerful risk-reduction tool in your workplace.

### Faculty

**Terri Aversa**, Senior Health and Safety Officer, OPSEU

**Mary Ann Baynton**, Mary Ann Baynton & Associates

**Maria Gergin**, Borden Ladner Gervais LLP

**Arleen Huggins**, Koskie Minsky LLP

**Sapna Mahajan**, Director, Prevention and Promotion Initiatives, Workplace, Mental Health Commission of Canada

**John Oudyk, CIH, ROH**, Occupational Hygienist, Occupational Health Clinics For Ontario Workers Inc.

*“Helpful resource tools and helpful guidance. Excellent content presented by...knowledgeable facilitators. Extremely worthwhile workshop with many take-aways.”*

Fern Goncalves, Director, People Development, Professional Engineers Ontario

*“Excellent speakers, up-to-date information. Many hints on how to implement concepts...this has been the most informative and useful course I've attended in several years. Well done!”*

Susan Oliver, Health & Disability Administrator, Regional Municipality of Durham

*“An excellent blend of speakers/presenters, with different perspectives. [Best things were:] the variety of perspectives, the quality and knowledge of the presenters, and the thoroughness of coverage.”*

Suzanne Dubien, Senior Manager, Human Resources, Sudbury Catholic District School Board

*“Excellent speakers, tons of resources. The speakers were all very confident, engaging, friendly, open to questions and willing to provide further resources...speakers did an awesome job.”*

Shanta Persad, HR Generalist, Wellington-Dufferin-Guelph Public Health

*“Awesome! Great info and well presented.”*

Beth Milliard, Sergeant and Officer-In-Charge (Peer Support Unit), York Regional Police

*“Love the depth of knowledge, experience and insight they provided.”*

Mark MacLure, Health, Safety and Environmental Manager, Marwood Metal Fabrication Limited

*“Great speakers, well-informed, higher-level.”*

Sophie M. Parsons, Labour Representative, Alberta Union of Public Employees (AUPE)

*“Great speakers and materials... good practical handouts and advice to take away.”*

Anne Marie McBride, Vice President, Human Resources, Willson International

*“So much great stuff! I thought the exercises were wonderful... extremely overarching, giving a wonderful complete picture.”*

Kim Stathakos, Team Leader, Disability Claims Management, ArcelorMittal Dofasco

*“All great speakers...so helpful to getting standards going... great networking opportunity.”*

Karen O'Connor, Senior Director, Clinical Programs and Strategic Planning, Canadian Mental Health Association (Peel Branch)

*“Great variety of strong speakers...a great program.”*

Tracy Dallas, Director of Operations, Ontario Bar Association

*“Great resource binder, liked the case scenarios, learned so much about external resources for the employer, topics well-balanced... awesome resources and tools provided to take back to the organization.”*

Susan Steger, Senior WSIB/WCB Claims Specialist For Canada, Aramark Canada Ltd.

## Registration Details

### Fee per Delegate

**\$2,795 plus HST**

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://www.osgoodepd.ca/group-discounts) for details. Please inquire about financial assistance.

### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.

### For further Program-Related Information please contact:

Paul Truster, Program Lawyer (416) 597-9733 or email [ptruster@osgoode.yorku.ca](mailto:ptruster@osgoode.yorku.ca)

## Certificate of Program Completion

You will receive a certificate upon completion of the four modules of The Osgoode Certificate in Workplace Mental Health Law. Participants must satisfactorily pass a take-home exam to receive a Certificate.

## 4 Convenient Ways to Register



Register today at:

[osgoodepd.ca/work-mhealth](http://osgoodepd.ca/work-mhealth)



Approved by HRP A for 24 Continuing Professional Development hours.



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