THE OSGOODE CERTIFICATE IN
WORKPLACE
MENTAL HEALTH LAW

November 6, 7, 13 & 14, 2017

PROGRAM DIRECTOR
Lauren Bernardi
Bernardi Human Resource
Law LLP

LOCATION
Osgoode Professional
Development
1 Dundas St. West,
26th Floor, Toronto, ON

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
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

### Program Faculty

<table>
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<tr>
<th>Name</th>
<th>Affiliation</th>
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<tr>
<td>Terri Aversa</td>
<td>Senior Health and Safety Officer, OPSEU</td>
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<td>Mary Ann Baynton &amp; Associates</td>
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<tr>
<td>Dr. Ash Bender, MD, FRCP (C)</td>
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<td>Program Chief and Medical Director, Mental Health Service, Trillium Health Partners &amp; Associate Professor, Department of Psychiatry, University of Toronto</td>
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### Advisory Board

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<tr>
<td>Donna Hardaker</td>
<td>Director Wellness Works, Mental Health America of California (MHAC)</td>
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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’.

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
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?

**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

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

**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

**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

**Addressing Substance Abuse Problems**
- Can you require an employee living with an addiction to undergo testing and/or counselling?
Day 4: November 14, 2017
9:00 a.m. to 4:00 p.m.


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

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 (CCOH)

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

Andrea Stoddart, Israel Foulon LLP

Helpful resource tools and helpful guidance. Excellent content presented by...knowledgable 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)
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 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

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

Approved by HRPA for 24 Continuing Professional Development hours.