

# THE OSGOODE CERTIFICATE IN WORKPLACE MENTAL HEALTH LAW

**Creating and maintaining a mentally healthy workplace has never been more important.** In this exclusively online interactive program, a multidisciplinary faculty will explain the law and best practices.

## Key areas include:

- Employers' legal duty of care for employees psychological well-being
- How the process of accommodation differs when mental health issues are involved
- Addressing substance abuse problems in the workplace
- Workplace harassment and mental health
- Social discord and impacts on psychological health and safety
- The effect of oppression on mental health
- Designing effective and practical return to work programs
- Creating mindful leaders - practical tips and tools

Register today at:

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

## PROGRAM DIRECTORS

**Lauren Bernardi**

Bernardi Human Resource Law LLP

**Brian Gottheil**

Bernardi Human Resource Law LLP

## REGISTRATION DETAILS

**November 7, 14, 21 & 28, 2023:**  
Online (Live)

*Can't make the date?  
Registration includes 120-day  
unlimited, online access to  
the recorded program.*



# The Osgoode Certificate in Workplace Mental Health Law

Register today at:

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

Deepen your understanding of employers' rights and obligations in this challenging and increasingly high-stakes area!

*“Fantastic program with so many great take-aways! The presenters were all extremely knowledgeable, sharing their perspectives and expertise in a very engaging manner!”*

Marcy Macdonald, Manager of Human Resources, City of Woodstock

The management of employee mental health issues has emerged as one of the most difficult and widespread challenges confronting today's workplaces, **and this has been magnified by the impact of COVID-19, and the rise of remote work/hybrid work environments.**

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.



## Topics Include:

- 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
- The impact of oppression on mental health
- Crafting return-to-work plans after mental-health-related absences

## Who Should Attend:

- Human Resources Professionals
- Occupational Health & Safety Professionals
- Disability and Return-to-Work Managers
- Trade Union Representatives
- Employment, Labour and Human Rights lawyers
- Workplace Mediators and Arbitrators
- Workplace Mental Health Professionals/Advocates
- Wellness consultants

*“Excellent program! Thank you. **It is clear that passionate people facilitate the content and direct the overall course.** Learning about the legal implications regarding psychological health and safety in the workplace has been excellent.”*

Sarah Salvis, Acting Superintendent  
Peel Regional Paramedic Services

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Drawing on the expertise and experience of a distinguished interdisciplinary faculty, including:

## Program Directors



**Lauren Bernardi**

Bernardi Human Resource Law LLP



**Brian Gottheil**

Bernardi Human Resource Law LLP

## Advisory Board

**Donna Hardaker**

Principal, Hardaker Consulting

**Sapna Mahajan**

Director, Genomics & Society,  
Genome Canada

**Sari Sairanen**

National Director, Health and Safety,  
UNIFOR

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## Program Faculty

**Dr. Nadia Aleem**

Psychiatrist & Lecturer, Brain &  
Therapeutics, Work Stress and Health  
Clinic, Centre For Addiction and  
Mental Health (CAMH)

**Marnie Baizley**

SpringLaw

**Dr. Ash Bender**

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

**Lauren Bernardi**

Bernardi Human Resource Law LLP

**Lina Di Carlo**

Executive Director, Ontario  
Occupational Health Nurses  
Association (OOHNA)

**Laura Freitag**

Filion Wakely Thorup Angeletti LLP

**Dr. Kenneth Fung**

Clinical Director, Asian Initiative in  
Mental Health, University Health  
Network; Professor and Director of  
Global Mental Health, Department of  
Psychiatry, University of Toronto

**Maria Gergin Phillips**

Gergin Phillips Investigations

**Doron Gold**

The Lawyer Therapist

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Executive Director, Mindful Employer  
Canada

**Sapna Mahajan**

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Genome Canada

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Whitten & Lublin  
Employment Lawyers

**Rob Martin**

Deputy Fire Chief, Brampton Fire  
and Emergency Services

**Christine O'Donohue**

Miller Thomson LLP

**Mitchell Rose**

Mitchell Rose Professional  
Corporation

**Jill Thompson, R.N.**

Manager – Occupational Health  
Safety & Wellness, Human  
Resources, North Bay Regional  
Health Centre

**Susan Ursel**

Ursel Phillips Fellows Hopkinson LLP

**Ryan Wozniak**

Wozniak Law Professional Corp.

# 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 7, 2023  
9:00 a.m. - 4:00 p.m. ET

### **Mental Illness: Recognizing the Signs at Work**

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.

In this essential context-setting session, two distinguished psychiatrists will explore how mental health issues manifest themselves in the workplace from an early stage, with discussion of clinically appropriate responses on the part of HR professionals.

### **Addressing Substance Abuse Issues in the Workplace**

- 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
- Practical case study (and possible solutions from both the employer and employee perspective)

## DAY 2

November 14, 2023  
9:00 a.m. - 4:00 p.m. ET

### **Employers' Legal Duty to Create a Psychologically Safe Workplace**

- 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?
- Steps employers are advised to take to prevent "reasonably foreseeable" mental injuries to their employees
- Understanding the indicia of the dividing line separating "reasonably foreseeable" harm from reckless or intentional harm

### **Dealing with Social Discord and the Link with Harassment**

- The statistics
- The impact on victims
- The impact on the workplace - increased absenteeism; decreased productivity; poor morale; increasing tensions among staff
- Accommodations for investigations
- Trauma informed interviewing

### **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

### **The Impact of Oppression on Mental Health**

Day 2 of the program concludes with expert panel exploring the adverse effects of oppression on mental health.

- How oppression and bias fuels poor mental health outcomes
- Exploring systemic solutions

#### **DAY 3**

November 21, 2023  
9:00 a.m. - 4:00 p.m. ET

### **Accommodating Mental Health Disabilities in the Workplace**

- The scope of the duty to accommodate and the process of accommodation: is it 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?

### **Inclusive Job Design and Policies to Protect Psychological Safety and Prevent Legal Liability**

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

### **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
- Practical case study exercise

#### **DAY 4**

November 28, 2023  
9:00 a.m. - 4:00 p.m. ET

### **The National Standard for Psychological Health and Safety in the Workplace: Understanding and Implementing it in Your 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 – focusing on practical and legally sound approaches – will equip you to fully understand and utilize this powerful risk-reduction tool in your workplace.

Following a solution-oriented session on creating mindful leaders, the day will close with a 'pulling the pieces together' assessment of the legal and HR strategies that are likely to prove most effective and implementable in realizing the goal of a psychologically safe workplace.

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# Registration Details

**Fee per Delegate: \$2,995 + tax**

**Newly Licensed\* : \$1,497.50 + tax**

\*This fee applies to newly licensed professionals within the past 2 years.

Fees include online attendance, electronic materials, and technical support.

## Financial Assistance

This program is eligible for OSAP funding. Federal and provincial job grants may be available. You may also apply for financial assistance with OsgoodePD. To learn more, visit: [www.osgoodepd.ca/financial-assistance](http://www.osgoodepd.ca/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:

David Thomas, Program Lawyer at 416 270 7316 or email [dthomas@osgoode.yorku.ca](mailto:dthomas@osgoode.yorku.ca)

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# Certificate of Program Completion


You will receive a certificate upon completion of **The Osgoode Certificate in Workplace Mental Health Law**. Participants must view all program modules and pass the post-program multiple choice assessment by December 28, 2023 to receive a certificate.


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## Register today at:

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 **Email:** [osgoodepd@osgoode.yorku.ca](mailto:osgoodepd@osgoode.yorku.ca)

 **Phone:** 416 597 9724

 **Mail:** 1 Dundas Street West, 26th Floor, Toronto, ON, M5G 1Z3



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.

Eligible CPD Hours: LSO (ON): 23h 30m CPD (19h Substantive; 4h 30 m EDI)



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca).



This program has been approved for 21 continuing professional development (CPD) hours under Section A3 of the Continuing Professional Development (CPD) log of the Human Resources Professionals Association (HRPA).

## What past attendees have said about the program:

*“All sessions were engaging and provided great information. I believe I have gained new perspectives that will improve my effectiveness in my role as Disability manager.”*

*“Excellent, experienced speakers. Engaging content. Well worth the investment.”*

*“Knowledgeable instructors with proven experience in the field...can't be more impressed.”*

*“More people should be taking this certificate program. I will share what I have learnt with other safety professionals, as it is important.”*

*“Informative and interesting discussions.”*

*“Excellent, expert speakers.”*