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Current Issues in Mental Health in Canada: Psychological Health and Safety in the Workplace

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(In Brief)*

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CONTENTS

1	INTRODUCTION.....	1
2	EMPLOYMENT AND MENTAL HEALTH.....	1
3	PSYCHOLOGICAL HEALTH AND SAFETY IN THE WORKPLACE: INITIATIVES.....	2
3.1	Legal Protections	2
3.2	The National Standard	3
3.3	Other Workplace-Based Initiatives.....	5
4	CONCLUSION	5

CURRENT ISSUES IN MENTAL HEALTH IN CANADA: PSYCHOLOGICAL HEALTH AND SAFETY IN THE WORKPLACE

1 INTRODUCTION

Mental health issues in the workplace cost the Canadian economy an estimated \$20.7 billion in 2012.¹ According to the Mental Health Commission of Canada, almost 25% of Canada's working population is affected by mental health issues that lead to higher rates of absenteeism, "presenteeism"² and employee turnover.³ Mental illness has become one of the leading causes of disability insurance claims in Canadian workplaces.⁴ Canada's Centre for Addiction and Mental Health estimates that every week, at least 500,000 employed Canadians are unable to work because of mental illness.⁵ Further, mental illness predominantly affects individuals at the beginning of their working years, as well as during their prime working years.⁶ In addition to costs from lost productivity, employers face increasing liability for grievances associated with workplace-related mental illnesses and mental injuries.⁷

This publication briefly examines factors that may contribute to mental health problems in the workplace and initiatives that promote psychological health (or mental health)⁸ and safety in Canadian workplaces. The publication focuses on mental health issues arising from, or aggravated by, potential stressors in the workplace; it does not address challenges faced by people with serious mental illnesses who have been unable to enter or re-enter the workforce.

2 EMPLOYMENT AND MENTAL HEALTH

Employment can contribute positively to mental well-being: it has been associated with an enhanced quality of life, while unemployment is correlated with impoverishment, reduced social engagement and feelings of worthlessness. However, working may also contribute to the development of mental health problems, such as anxiety, depression and burnout.⁹

The relationship between work and mental health is not always obvious, since mental health issues are not necessarily confined to the workplace.¹⁰ The Standing Senate Committee on Social Affairs, Science and Technology stated in its 2006 report on mental health, *Out of the Shadows At Last* (Kirby Report), that "the issues surrounding mental health and the workplace are complex and multifaceted,"¹¹ and a causal relationship between mental health problems and the workplace cannot always be established.¹²

The Kirby Report noted that individuals with mental illness or mental health problems may face a number of challenges in the workplace, including employers' or co-workers' negative attitudes and discrimination, their lack of understanding or knowledge of mental health issues, or employers' unwillingness to accommodate and support employees.¹³ In addition, because of the episodic, cyclical and unpredictable

nature of mental illnesses, it may be difficult to make the necessary accommodations at work for people with mental health problems.¹⁴

A two-year study on mental health risk factors in the workplace in Canada completed in 2013 identified the top contributing factors for psychological distress, depression and burnout in the workplace as job insecurity, relationship problems outside of the workplace, lack of work–life balance, psychological demands from work, conflicts in the workplace and abusive supervision.¹⁵ In addition, the Global Business and Economic Roundtable on Addiction and Mental Health¹⁶ identified a number of management practices and behaviours – such as imposing unreasonable demands on employees; failing to give employees discretion and control over their work; creating an endless and high volume of work for employees; and failing to acknowledge employees’ contributions and achievements – that can precipitate or aggravate mental health problems in the workplace.¹⁷

3 PSYCHOLOGICAL HEALTH AND SAFETY IN THE WORKPLACE: INITIATIVES

Other studies have identified certain workplace characteristics – such as support from senior management, employee participation and employment security – that contribute to better mental health and increased profitability.¹⁸ These studies have concluded that the implementation of such positive attributes decreases absenteeism and symptoms of depression, and increases employees’ well-being and productivity.¹⁹ However, according to a 2012 Ipsos Reid survey, 71% of Canadian employees surveyed reported “some degree of ‘concern’ ... about levels of psychological health and safety in their workplace.”²⁰ This section examines certain legal protections and some practices that have been put into place to address mental health issues in Canadian workplaces.

3.1 LEGAL PROTECTIONS

The protection of employees’ health falls under federal, provincial and territorial occupational health and safety (OHS) laws in Canada. OHS laws define the rights, duties and responsibilities of key parties in the workplace, with the goal of preventing work-related accidents and diseases. In many countries, such as the United Kingdom, Germany, Spain, France, Australia and New Zealand, OHS legislation protects workers’ psychological health and safety in addition to their physical health and safety;²¹ this is not the case in Canada.

Under the *Constitution Act, 1867*, provincial and territorial legislatures have the general authority to create employment laws governing health and safety, while the Parliament of Canada has authority over employment matters within the federal public service and federally regulated industries (e.g., banking, telecommunications and transportation).²² As a result, Canada has 14 sets of OHS laws from its various jurisdictions. While there is much variation among jurisdictions, no law in any jurisdiction in Canada explicitly requires employers to provide a psychologically healthy and safe workplace or to protect employees from psychosocial risk factors in the workplace.²³ However, some jurisdictions have begun to address psychological

health and safety by adding the concepts of workplace violence or psychological harassment (including bullying) to their existing OHS laws and regulations.

In the federal jurisdiction, employers have a legal duty to protect their employees' health and safety under Part II of the *Canada Labour Code* and the 2008 *Canada Occupational Health and Safety Regulations*.²⁴ The regulations require every employer to identify the risks of workplace violence and to develop a policy against such violence. They define "workplace violence" as "any action, conduct, threat or gesture of a person towards an employee in their work place that can reasonably be expected to cause harm, injury or illness to that employee."²⁵ The regulations do not explicitly limit the terms "workplace violence" or "harm, injury or illness" to strictly physical meanings. Further, employers are required to pay attention to "bullying, teasing, and abusive and other aggressive behaviour" and to dedicate resources to preventing such behaviour.²⁶ The *Canada Labour Code* also asserts that workers have the right to a workplace free of sexual harassment and imposes certain obligations on employers to ensure that workers are not subjected to sexual harassment.²⁷ In addition to statutes and regulations, the Treasury Board of Canada Secretariat's 2012 Policy on Harassment Prevention and Resolution provides strategic direction to deputy heads for the prevention and management of harassment in the workplace.²⁸

Quebec was the first jurisdiction in North America to specifically require employers to protect workers' rights to a workplace free of psychological harassment.²⁹ Quebec's *Act Respecting Labour Standards* defines "psychological harassment" as

any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment for the employee."³⁰

Under this Act, employers in Quebec have a duty to prevent psychological harassment.³¹ If employers fail to protect their employees, they may be subject to a grievance or to a complaint to the Commission des normes du travail.³²

In addition, a series of tribunal decisions across Canada suggests a developing trend towards an expanded duty for employers to provide psychologically safe workplaces for their employees.³³ Despite this trend, much variation remains among, and within, jurisdictions; as a result, there is still no clearly established legal duty for employers to maintain psychologically healthy and safe workplaces in Canada.³⁴

3.2 THE NATIONAL STANDARD

In January 2013, the Mental Health Commission of Canada (MHCC), the Canadian Standards Association Group and Quebec's standards development body, the Bureau de normalisation du Québec, launched the voluntary National Standard of Canada for Psychological Health and Safety in the Workplace. The National Standard was a project championed by the MHCC and funded by the federal government (through Human Resources and Social Development Canada, Health Canada and the Public Health Agency of Canada), the Great-West Life Centre for Mental Health in the Workplace and Bell Canada.

The National Standard defines a “psychologically healthy and safe workplace” as a workplace that “actively works to prevent harm to worker psychological health, including in negligent, reckless or intentional ways, and promotes psychological well-being.”³⁵ It provides guidance to employers and unions on how to identify, assess, eliminate and control psychological hazards, and how to foster and promote psychological health and safety in the workplace.³⁶

The National Standard affirms that organizations with psychologically healthy and safe workplace strategies perform better, on average, than those without a strategy in key performance categories such as health and safety, various human resource measures and shareholder returns. In addition, employers who successfully implement such workplace strategies benefit from

- enhanced employee productivity and engagement;
- higher profit margins;
- positive reputations;
- more innovative work;
- a reduction of negative workplace factors (e.g., conflicts, grievances, turnover, disability, injury and absenteeism); and
- greater cost effectiveness because of decreased absenteeism, sick leave and use of disability benefits.³⁷

Implementation of and compliance with the National Standard are strictly voluntary. Although the MHCC states that the National Standard is “not intended to be adopted into federal, provincial, or territorial legislation,”³⁸ it remains to be seen if the National Standard becomes part of law in any Canadian jurisdiction. Some commentators have suggested that it could become part of law through legislators’ incorporating the National Standard by reference into OHS legislation. Alternatively, courts and tribunals could determine that compliance with the National Standard forms part of an employer’s general duty to its employees, in accordance with the jurisdiction’s respective OHS laws.³⁹

Whatever its legislative status, the National Standard may be considered as a “best practice document[t] in [its] subject matter area” by Canadian courts and tribunals when determining the appropriate standards for workplace health and safety.⁴⁰ In this way, the National Standard has the potential to broaden employers’ health and safety obligations under existing legal frameworks. As noted in one commentary on the National Standard, “The breadth of [the National Standard’s definition of psychological safety] is at odds with obligations under OHS legislation. Canadian courts and tribunals have not interpreted OHS legislation this broadly.”⁴¹

3.3 OTHER WORKPLACE-BASED INITIATIVES

The Kirby Report identified two major categories of mental health intervention in the workplace.

- *Primary prevention* initiatives aim to eliminate or reduce workplace factors that have a negative impact on employees' mental health. Based on various studies, these strategies require employers to develop and implement best management practices and strategies that foster a psychologically healthy and safe work environment.
- *Secondary intervention* measures aim to improve employees' ability to adapt to and to manage stress, thereby reducing the effect of stressful work circumstances. These interventions include workplace disability management strategies to support individuals' return to work, workplace accommodations that promote and provide equality in employment (e.g., flexible work hours, frequent breaks, telework) and employee assistance programs (i.e., employer-sponsored counselling programs and services).⁴²

4 CONCLUSION

Mental health issues in the workplace can be influenced by the environment and culture of a workplace and by employees' personal characteristics. Organizations have a certain amount of control over organizational factors and, in some jurisdictions, employers may be increasingly held responsible for ensuring their employees' mental health and well-being.

Occupational health and safety laws in Canada do not necessarily protect workers' psychological health and safety. It remains to be seen whether the voluntary National Standard on psychological health and safety in the workplace, introduced in 2013 and championed by the Mental Health Commission of Canada, will lead to an increase in employers' obligations to safeguard their employees' mental health and well-being in the workplace.

NOTES

1. Conference Board of Canada, [Mental Health Issues in the Labour Force: Reducing the Economic Impact on Canada](#), July 2012. See also Raphaëlle Deraspe, [Current Issues in Mental Health in Canada: Economic Impact of Mental Illness](#), Publication no. 2013-87-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 27 September 2013.
2. Presenteeism is defined by the [Canadian Centre for Occupational Health and Safety](#) as "the action of employees coming to work despite having a sickness that justifies an absence, therefore they are performing their work under sub-optimal conditions."
3. Mental Health Commission of Canada [MHCC], [Issue: Workplace](#).

4. Senate, Standing Committee on Social Affairs, Science and Technology, Section 8.2.1, [“The Impact of Global Economic Trends on Mental Health Issues in the Workplace,”](#) in *Out of the Shadows at Last: Transforming Mental Health, Mental Illness and Addiction Services in Canada*, Final Report, Ottawa, May 2006 [The Kirby Report], p. 177. See also Karla Thorpe and Louise Chénier, [Building Mentally Healthy Workplaces: Perspectives of Canadian Workers and Front-Line Managers](#), Conference Board of Canada, June 2011.
5. Centre for Addiction and Mental Health, [Mental Illness and Addiction Statistics](#).
6. The Kirby Report (2006), p. 177.
7. According to the Canadian Mental Health Association, “Mental injury at work has become a recognized category of harm in the law over the last 15 years.” (See Mental Health Works project website, [The Legal and Regulatory Case](#).)
8. The Canadian Standards Association [CSA] and the Bureau de normalisation du Québec [BNQ] use the terms “psychological health” and “mental health” synonymously in CSA Group and BNQ, [Psychological health and safety in the workplace – Prevention, promotion, and guidance to staged implementation](#) (National Standard of Canada), Publication numbers CAN/CSA-Z1003-13 and BNQ 9700-803, MHCC, January 2013. This document is discussed in more detail in section 3.2 of this publication.
9. The Kirby Report (2006), p. 171.
10. *Ibid.*, pp. 172–173.
11. *Ibid.*, p. 171.
12. *Ibid.*, p. 172.
13. *Ibid.*, pp. 172–176.
14. *Ibid.*, p. 174.
15. Standard Life, [Key findings of the Marchand-Durand study on mental health in the workplace](#).
16. The [Global Business and Economic Roundtable on Addiction and Mental Health](#) is a network of business, health and education leaders who provide information analysis and ideas concerning the linkage between business, the economy, mental health and work.
17. Bill Wilkerson, [Roundtable Roadmap to Mental Disability Management in 2004–05: The Business Years for Mental Health](#), Global Business and Economic Roundtable on Addiction and Mental Health, 2004, pp. 14–15.
18. See, for example, Michel Vézina et al., [Workplace Prevention and Promotion Strategies](#), HealthcarePapers, Volume 5, Issue 2, 2004.
19. The Kirby Report (2006), p. 181.
20. Ipsos Reid, [Nearly Three-Quarters \(71%\) Report Some Degree of Concern About Levels Of Psychological Health and Safety In Their Workplace](#),” News release, 30 October 2012.
21. Katherine Lippel, [Law, Public Policy and Mental Health in the Workplace](#), Healthcare Papers, Vol. 11, Special Issue, May 2011, p. 27.
22. Under the [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3, employment matters may fall under federal powers of the Parliament as matters related to “[t]he fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada” (s. 91(8)) and to “local Works and Undertakings ... declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces” (s. 91(10(c))). They may also fall under the exclusive powers of the provincial legislatures under “Property and Civil Rights in the Province” (s. 92(13)).

PSYCHOLOGICAL HEALTH AND SAFETY IN THE WORKPLACE

23. The Canadian Centre for Occupational Health and Safety's [Mental Health – Psychosocial Risk Factors in the Workplace](#) web page lists 13 psychosocial risk factors (identified by researchers at Simon Fraser University) that may have an impact on organizational health, the health of individual employees and the financial bottom line, as well as a number of other workplace issues that may affect mental health (e.g., stigma, discrimination, stress, control and effort/reward relationships).
24. [Canada Occupational Health and Safety Regulations](#), SOR/86-304.
25. Ibid., s. 20.1.
26. Ibid., s. 20.3(b).
27. *Canada Labour Code*, R.S.C., 1985, c. L-2, [ss. 247.1–247.4](#).
28. Treasury Board of Canada Secretariat, "[Policy on Harassment Prevention and Resolution](#)."
29. Lippel (2011), p. 25.
30. [An Act Respecting Labour Standards](#), R.S.Q., c. N-1.1, (Quebec), s. 81.18.
31. Ibid., s. 81.19.
32. Lippel (2011), p. 25.
33. Martin Shain, [Tracking the Perfect Legal Storm: Converging systems create mounting pressure to create the psychologically safe workplace](#), An update to *Stress, Mental Injury and the Law in Canada: a discussion paper for the Mental Health Commission of Canada 2009*, May 2010, p. 24.
34. Patricia L. Janzen and Magdalena A. Wojda, [The "Psychologically Safe" Workplace](#), Paper presented at the Canadian Association of Counsel to Employers Presentation eighth annual conference, Niagara Falls, Ontario, 2011.
35. CSA Group and BNQ (2013), p. 1.
36. Ibid., p. 2.
37. Ibid., p. 1.
38. MHCC, CSA Group and BNQ, "[National Standard of Canada for psychological health and safety in the workplace released](#)," News release, 16 January 2013.
39. Cheryl A. Edwards and Shane Todd, "[National Standard for Psychological Health and Safety in the Canadian Workplace Released](#)," *OHS & Workers' Compensation: Management Update*, 24 January 2012, p. 3.
40. Ibid.
41. Ibid.
42. The Kirby Report (2006), pp. 180–188.