



## NEWS RELEASE

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# Mental Health in the Workplace: A Perfect Legal Storm

**Calgary, Alberta, September 30 2010** – Financial rewards for damages caused by mental injury at work have increased over the past five years by as much as 700%, according to a report released today by the Mental Health Commission of Canada (MHCC). The report warns that a perfect legal storm is brewing in the area of mental health protection at work, and points to emerging responsibilities for employers to provide a psychologically safe workplace. This is timely, since October is Canada’s Healthy Workplace Month and next week is Mental Illness Awareness Week.

The *Tracking the Perfect Legal Storm* (2010) report has been prepared for the MHCC by Dr. Martin Shain (University of Toronto), an academic lawyer and leading expert in workplace mental health issues. It concludes that employers are confronted with a legal duty to maintain not only a physically safe workplace, but also a *psychologically* safe workplace.

According to Shain, the pressures of the modern workplace can lead to common mental health conditions, such as depression, anxiety and burnout, which can sometimes be characterized as mental injury. Courts and tribunals are scrutinizing behavior that may cause mental injury to employees and legal actions are being taken in seven key areas of law, including human rights tribunals and Occupational Health and Safety Law. These factors are converging to form what Shain calls a perfect legal storm.

To read the report and summary, visit:

<http://www.mentalhealthcommission.ca/English/Pages/Mentalhealthintheworkplace.aspx>

### The business case

“Every single one of us is touched by mental illness at some point in our lives. It affects our families, friends and colleagues,” says Dr. Jayne Barker, Vice-President Policy & Research and Mental Health Strategy for the MHCC.

“It is estimated that mental illness costs the Canadian economy \$51 billion per year in terms of health care service use, lost workdays and work disruptions. With 17 million workers in Canada, it is the responsibility of both employers and employees to protect and promote mental health in the workplace,” she adds.

*The Perfect Legal Storm* (2010) is an update of Shain's *Stress at Work* (2009) report which first introduced the concept of a psychologically safe workplace. In both reports, Shain explains how Canadian courts and tribunals are:

- increasingly intolerant of workplace factors that threaten psychological safety
- ordering management to change workplace habits that threaten employee safety, health and well-being
- imposing increasingly large financial punishments for transgressions

“Judges, arbitrators and commissioners are becoming increasingly insistent upon more civil and respectful behaviour in the workplace and avoidance of conduct that could lead to mental injury. Overall, financial rewards for damages have increased in size over the past five years by as much as 700%,” says Shain.

Overall, Shain estimates that between \$2.97 billion and \$11 billion could be saved annually in Canada if mental injuries caused by the actions of employers were to be prevented.

“Employers who set a strategic goal for managing and improving workplace mental health will benefit from significant and sustainable gains in: productivity; recruitment and retention; cost reductions due to lower disability and absentee rates; conflict reduction, and operational success,” adds Shain.

### **Encouraging employers to provide a mentally safe workplace**

Many employers are unaware of this brewing legal storm and may not be equipped to assess and address psychological safety issues in their workplace. As part of its approach to help remedy this, the MHCC is meeting with employers, union leaders, and workplace health and safety and legal experts today, September 30, in Vancouver, British Columbia. At the meeting, strategies, tools and support needed for employers to provide a psychologically safe workplace will be discussed.

“The business case for providing a psychologically safe workplace is clear. The Mental Health Commission of Canada encourages every organization to discuss these issues openly and start taking action to create a mentally safe work environment for all,” concludes Jayne Barker.

### **About the Mental Health Commission of Canada**

The Mental Health Commission of Canada is a catalyst for transformative change. Our mission is to work with stakeholders to change the attitudes of Canadians toward mental health problems and to improve services and support. Our goal is to help people who live with mental health problems lead meaningful and productive lives. The Mental Health Commission of Canada is funded by Health Canada.

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