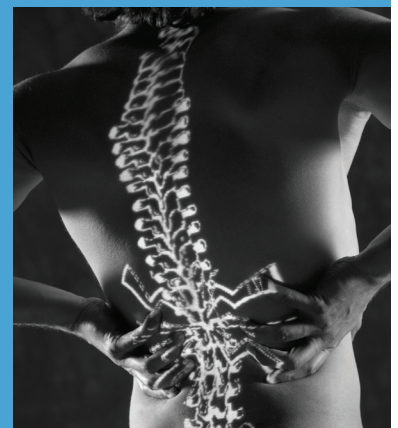
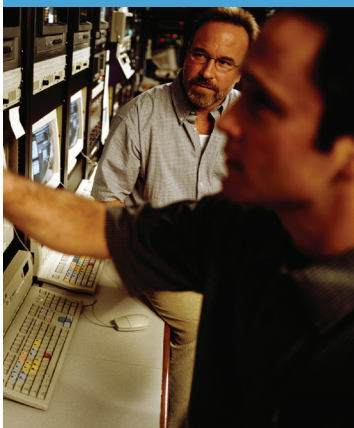


# The Business Case for a Healthy Workplace

By: Joan Burton, Senior Strategy Advisor, Healthy Workplaces, IAPA



**IAPA**

It's About Making A Difference.

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## I. WHAT Produces Worker Health?

When looking at employee health and well-being, it must be recognized that a worker's health is produced by two factors:

- > **what workers bring with them to the workplace**, in terms of heredity, personal resources, health practices, beliefs, attitudes, and values; and
- > **what the workplace does to employees once they are there**, in terms of organization of work in both the physical and psychosocial sense.

The employer has total control over the second factor, and can exert a strong influence on the first factor.

## II. WHY Bother with a Business Case?

In considering the "Business Case" for creating a healthy workplace, many employees, unions and other worker advocates may well ask, "Why do we need a business case at all? Isn't there a moral responsibility for employers to send workers home from work as healthy and whole as when they came to work?"

Each individual must answer that question in his or her heart and mind. But in any case, there are many ethical employers who still look for business reasons to support the moral and ethical reasons. That is what this article is about.

## III. HOW is a Healthy Workplace Defined?

For the purposes of this document, a healthy workplace is defined to be consistent with the models promoted by Health Canada, the National Quality Institute, the Ontario Healthy Workplace Coalition and the Forum on the Advancement of Healthy Workplaces. The basis of this model is the premise that employers have three avenues by which they can influence the health and well-being of their employees. A healthy workplace integrates these three avenues to achieve optimal health of its people and its business. While terminology for the three avenues may differ slightly, the models all agree in content and intent.\* The three avenues are:

\* For more information on the what, why and how of healthy workplaces, see *Creating Healthy Workplaces*, by Joan Burton, published by IAPA (Industrial Accident Prevention Association) in November 2004. This can be downloaded from the IAPA website at [www.iapa.ca](http://www.iapa.ca).

**1. Organizational Culture:** The organizational culture consists of the attitudes, values and beliefs that are demonstrated in the workplace on a daily basis that affect the mental and physical well-being of employees. Some key examples are:

- respect
- appreciation
- commitment to balanced workloads and job enrichment
- decision latitude
- employee involvement
- support for work-life harmony.

Sometimes called the "psychosocial work environment," this aspect includes non-physical hazards that can influence the health of employees. Other phrases for these hazards could be work organizational factors or workplace stressors. There is evidence showing many of these factors create a two to three times greater risk of injuries, workplace conflict and violence, back pain, and mental illness.

**2. The Physical Work Environment:** A safe and healthy physical work environment is one where traditional occupational health and safety hazards (for example, chemical, musculoskeletal, electrical and machine hazards) are recognized, assessed and controlled.

**3. Personal Health Resources:** Personal health resources are the resources, opportunities and flexibility the organization provides to support employees' efforts to improve or maintain their personal health practices or lifestyle. Work often creates barriers to employees wishing to make healthy lifestyle choices. While employers must not impose lifestyle choices on workers, there are often ways that creative and motivated employers can remove barriers and support the personal health goals of employees. Some common examples are providing:

- flex time so employees can exercise
- fitness club or equipment subsidies
- immunization clinics
- smoking cessation programs
- stress management training
- healthy food choices in the cafeteria and vending machines
- "Lunch & Learn" talks on various health or disease prevention topics

This model of a healthy workplace can be represented graphically as three overlapping circles as in Figure 1, since the three aspects often overlap:

**Figure 1. Components of a Healthy Workplace**



#### IV. Strategic Business Drivers

One of the errors commonly made when discussing the business case is to equate “business” with profit or money. But there is more to business than money. There are three broad strategic business reasons for creating a healthy workplace:

**The Financial Costs** – the monetary costs of an unhealthy workplace, and the cost/benefit of creating a healthy workplace.

**The Organizational Profile** – becoming an “employer of choice” and being seen as demonstrating Corporate Social Responsibility in the community, thus creating added value for shareholders and other stakeholders.

**The Legal Case** – demonstrating due diligence with respect to employees, customers and stakeholders.

Each of these broad strategic issues is very much a business issue. Nevertheless, when employers discuss the “business case” for a healthy workplace, they put a strong emphasis on the financial aspects. Therefore this article will devote more space to the first strategic driver than the others. In the end, the other two also contribute to the financial status and viability of the organization.

#### A. The Financial Costs

##### 1) The Cost of Doing Nothing

It is intuitively obvious that unhealthy, stressed employees will cost a company something in terms of absenteeism and decreased productivity. But a business case requires more than a “gut feeling” about issues. There is much evidence documenting the costs to business of having employees who exhibit unhealthy lifestyles (see Unhealthy Lifestyles, below). In addition, there is a growing abundance of data documenting that the organizational culture, especially certain psychosocial risk factors, can have a profoundly negative impact on employees’ health, safety, and well-being. Figure 2 is a summary of many research papers, and quantifies the increased risk for injuries, heart disease, depression, back pain, etc., that result from a stressful workplace characterized by high demands, low control, high effort and low rewards.<sup>1</sup>

**Figure 2. Effects of an Unhealthy Workplace on Employees**

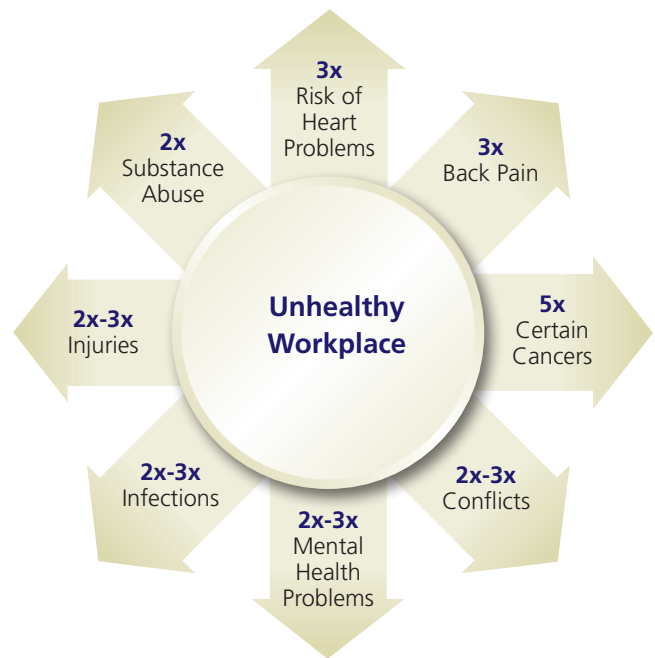
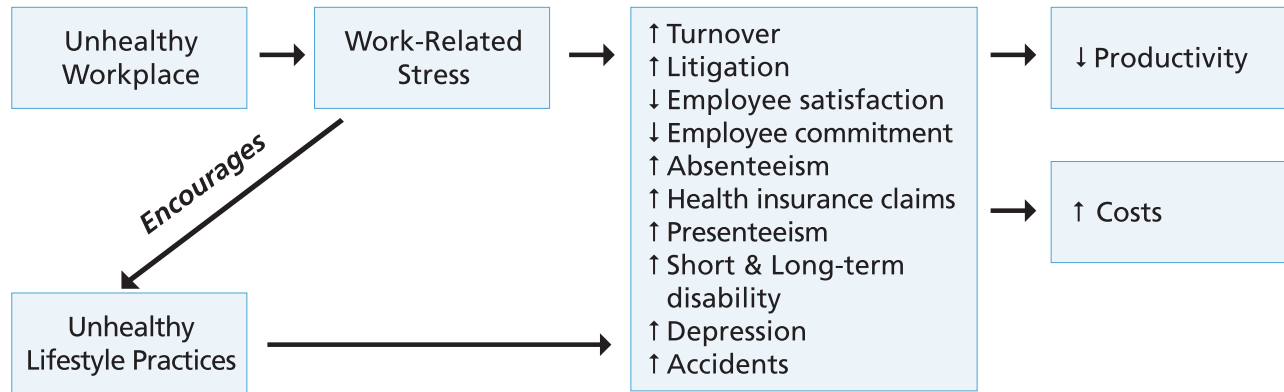


Figure 3.



### a. The Concept of Stress

Much has been written about workplace stress and the cost of stress to business. However, “stress” itself is not a financial cost to anyone. For the purposes of this document, “stress” will be used to describe the subjective feelings that result from any number of conditions at work (“stressors”), such as being overwhelmed by work demands that are out of our control, or unpleasant “toxic” workplace relationships. Those feelings are not costing anyone anything – the exception being when intense stress results in immediate poor performance that directly impacts on productivity. But when those feelings are sustained and prolonged, they result in any number of negative outcomes, which do cost the employer and the employee.

Figure 3 illustrates this relationship. The unhealthy workplace causes employees to feel stressed (subjective feelings), which when sustained, can result in many different outcomes, such as increased absenteeism, health insurance claims, presenteeism\*, short- and long-term disability, mental illness such as depression, increased turnover, increased accident rates, increased number of grievances or lawsuits, and decreasing employee satisfaction and commitment. Those factors in turn have significant costs associated with them directly, and also contribute to decreased productivity.

Unhealthy lifestyle practices also contribute to absenteeism, health insurance claims, presenteeism, short- and long-term disability, depression, and accidents. While these habits may be ones that the employee brings to the workplace, work-related stress can make it more difficult to maintain a healthy lifestyle, and may in fact encourage unhealthy

\* Presenteeism occurs when an employee is physically present at work, but less productive because he/she is sick, injured, stressed or burned-out.

habits. For example, if work demands include a lot of unplanned travel or overtime, it may be difficult for the employee to eat properly, or get enough exercise or sleep.

### b. Examples of Cost Data

The difficulty in documenting costs for some of these outcomes of stress is not the lack of data, but rather the abundance. In order to limit the length of this document, only a few examples of each outcome are included. To read more details or get more examples, refer to the references at the end of the article.

#### Absenteeism

- > The Canadian Policy Research Networks estimates that stress-related absences cost Canadian employers about \$3.5 billion each year.<sup>2</sup>
- > Chrysalis Performance Inc. research shows that stress in a business contributes to 19% of absenteeism costs.<sup>3</sup>
- > The cost of absenteeism attributable to work-life conflict in Canadian businesses is \$5.48 billion per year.<sup>4</sup>

#### Health Insurance Claims

- > The cost of supplemental health plans for Canadian employers increased by 26% between 1990 and 1994.<sup>5</sup>
- > 29% of total health care was paid for by the private sector (private insurance paid by employers or individuals) in 2000 (up from 24% in 1980). This is mostly for drugs and services of health professionals.<sup>6</sup>

## Presenteeism

- > In a 2005 survey of human resource professionals from 94 Canadian organizations with 250 or more employees, representing over 300,000 employees, presenteeism was identified by 28% of respondents as an issue of concern, and 18% intend to address the issue in the short term.<sup>7</sup>

## Short-and Long-term Disability

- > Short-term absence costs more than doubled between 1997 and 2000, going from 2% of payroll to 4.2%. Short- and long-term disability costs together are more than double the costs of workers' compensation, and the ratio has been increasing since 1997.<sup>8</sup>
- > Chrysalis Performance Inc. research shows that stress in a business contributes to 30% of short-term and long-term disability costs.<sup>9</sup>
- > Watson Wyatt reports a 27% increase in long-term disability costs in 2005, compared to 2002/2003, due to an aging workforce, increasing productivity demands, and rising mental health claims. This increase is despite advances in early intervention and a continuing emphasis on claims management.<sup>10</sup>

## Mental Health

The issue of mental health warrants its own article. Here are just a few numbers:

- > Costs of lost productivity due to mental illness in Canadian businesses equal \$11.1 billion per year.<sup>11</sup>
- > Mental health problems cost Canadian businesses \$33 billion per year, if non-clinical diagnoses are included (e.g. burnout, sub clinical depression, etc.).<sup>12</sup>
- > The leading cause of short-term and long-term disability in 2005 was mental health issues, including stress.<sup>13</sup>

## Accidents

- > Chrysalis Performance Inc. research shows that stress in a business contributes to at least 60% of workplace accidents.<sup>14</sup>
- > Frequent conflicts with supervisors or colleagues, and high psychological and emotional job demands more than double the risk of being injured in an occupational accident (relative risk 2.5).<sup>15</sup>

## Turnover

- > Strong *negative* correlations can be demonstrated between employee turnover and:<sup>16</sup>
  - Having a clear say in decisions that affect their work
  - Being asked for their opinions on important matters
  - Having the opportunity to fulfill personally meaningful values
  - Perception of supervisors as caring and considerate of their well-being
  - Trust of supervisors and senior management
  - Receiving recognition and praise for good work.
- > Chrysalis Performance Inc. research shows that stress in a business contributes to 40% of turnover costs.<sup>17</sup>

## Litigation

- > In Sulz versus the RCMP, Nancy Sulz was awarded nearly \$1 million in damages when her mental health was ruined by a supervisor's treatment. The law firm of Stringer, Brisbin Humphrey noted, "*When an employee's mental health is eroded or destroyed as a result of treatment they are exposed to by a supervisor, the employer may be held responsible for all economic loss the employee suffers and general damages for the tort of negligent infliction of mental suffering.*"<sup>18</sup>
- > See section on The Legal Case, below.

## Employee Satisfaction + Commitment = Engagement

- > Among the top 10 drivers for securing employee engagement – or securing discretionary effort in the work done – are the following characteristics of a healthy workplace culture:<sup>19</sup>
  - Opportunities to learn and develop new skills
  - Reputation of the organization as a good employer
  - Input into decision making in my department
  - Good collaboration across units
  - Appropriate amount of decision-making authority to do my job well
  - Senior management interest in employee well-being

> The most strong correlates with employee satisfaction, accounting for 56% of the variance in employee satisfaction are:<sup>20</sup>

- Connection to the big picture
- Empowerment
- Meaningful work
- Reasonable work demands

### Unhealthy lifestyles

- > Employees with four lifestyle risk factors (sedentary, overweight, smoker, high alcohol intake) are absent over 50% more often than those without the risk factors, and cost 2-3 times more in health costs.<sup>21</sup>
- > Employers pay an extra \$597/year for each employee who consumes excessive amounts of alcohol.<sup>22</sup>
- > Employers pay an extra \$488/year for every sedentary employee.<sup>23</sup>
- > Every smoker costs a company \$2500/year.<sup>24</sup>
- > There is a linear relationship between obesity and number of workers' compensation claims, lost workdays, medical claims costs and indemnity claims costs.<sup>25</sup>
- > The total cost of obesity to Canadian employers is \$1.3 billion per year.<sup>26</sup>
- > Obese employees spend about 35% more on health services and 77% more on medications than people of healthy weight.<sup>27</sup>
- > Telus Mobility estimated that each health risk factor (e.g., smoking, obesity, etc.) costs their organization about \$2000 per employee per year.<sup>28</sup>

## 2) The Benefits of Doing Something

Many companies have developed sophisticated injury prevention programs to reduce injuries and ill-health related to the physical environment of the workplace. The result for these employers is lower workers' compensation costs and a healthier bottom line, as outlined in many other documents, such as Business Results Through Health & Safety, published by the Workplace Safety and Insurance Board and the Canadian Manufacturers and Exporters.<sup>29</sup>

But while the costs associated with poor personal health practices and an unhealthy organizational culture are enough to make most businesses sit up and take notice, employers may think it too difficult to do anything

about these issues. They may also be unsure of whether interventions in these areas would work.

Fortunately, research indicates that interventions don't have to be large to make a difference. In his document, "Reality Check,"<sup>30</sup> researcher R.J. Fries states that while in theory 70% of health care expenses are associated with preventable conditions, it is likely that only 20–30% are actually preventable today. He suggests that a practical and achievable target for health promotion programs and psychosocial interventions is to structure them to reduce healthcare costs by around 20%.

Some examples of successful interventions are as follows:

- > The Canadian Institute of Stress (Bell Canada Operator Services research) says stress control programs can result in:<sup>31</sup>
  - 18% reduction in absences
  - 32% reduction in grievances
  - 52% reduction in disability time
  - 7% improvement in productivity
  - 13% improvement in service quality
- > A stress-reduction program in a branch of the Halifax provincial government reduced absenteeism by 27%.<sup>32</sup>
- > A worksite health promotion program in a large telecommunications company resulted in a 20% decrease in short-term disability among participants.<sup>33</sup>

Similarly, the literature recognizes that changing the organization of work or addressing psychosocial issues can also increase employee satisfaction and health. And that has positive cost implications for employers. Research shows that for every 5-unit increase in employee satisfaction in one quarter, there is a 1.3 unit increase in customer satisfaction in the next quarter and a 0.5 unit increase in revenues above the national average in the following quarter.<sup>34</sup>

Based on the figures provided in section (b) above, and assuming that 20% of costs are preventable, Canadian businesses have the opportunity to save, per year:

- > \$700 million in stress-related absences
- > \$2.22 billion in lost productivity due to mental illness
- > \$6.6 billion in lost productivity due to all forms of clinical and sub clinical mental illness
- > \$1.1 billion in absenteeism due to work-family conflict

Specific examples of companies that have made significant improvements abound in the literature. Here are just a few:

- > Dofasco Inc., a Hamilton-based steel company, has changed the way it does business to include a philosophy of employee engagement, and an emphasis on encouraging healthy lifestyles. Dofasco was one of the first winners of the Canada Awards of Excellence Healthy Workplace Award (2002) and has been named one of the most sustainable companies by the Dow Jones Sustainability World index for many years.<sup>35</sup>
- > MDS Nordion, a medical technology manufacturer in Kanata, Ontario, created a healthy workplace based on management commitment and employee participation. Some of the results they saw were a turnover rate of just over 6%, compared to an industry average of 10%; and a decline in annual sick day usage per person to less than 4 days per year, compared to the Canadian average of 7.4 days at the time.<sup>36</sup>
- > Delta Hotels created a healthy workplace environment based on “response-ability” – giving the staff more responsibility, accountability and authority – having more say and control of their work environment. Their turnover rate is 19-22%, compared to 40-60% in the hospitality and tourism sector.<sup>37</sup>
- > Irving Paper is a unionized 375-employee manufacturer in Saint John, NB. Their health and safety program is supplemented with many health promotion programs and subsidies to encourage healthy lifestyles. Between 1995 and 2000, their short-term disability costs dropped by 50%, a savings of \$800,000. The number of union grievances fell from 50 per year to 11 per year.<sup>38</sup>
- > Pazmac Enterprises is a small private, non-unionized company in Langley, BC. They emphasize 2-way communications and employee involvement, and have designed the entire workplace around health and cleanliness. Their average sick time is an incredible 0.1 day per employee per year. Their turnover rate is non-existent, with only 3 employees leaving voluntarily in the past 5 years.<sup>39</sup>

### 3) Cost-Benefit Analyses

As noted earlier, many companies are willing to tackle the costs associated with improving the physical

environment of the workplace. That’s partly because there is plenty of evidence to prove that the return on their investment will be substantial.<sup>40</sup>

But in spite of the fact that stress and poor mental or physical health are costing Canadian businesses billions, and that interventions can improve things significantly, skeptical employers may still be concerned about the amount of effort and expense required to make these improvements in these areas.

In other words, if they do make an effort to address problems related to health practices and the psychosocial environment, what is the likely cost-benefit, or return on investment for them?

Again, the literature is encouraging. While there are often difficulties quantifying some of the results,<sup>41</sup> there is growing evidence that the cost-benefit ratio ranges from \$1.50 to \$6.15 for every dollar invested (see examples cited below). The higher numbers result when (1) a comprehensive approach to a healthy workplace is used, rather than a single focus and (2) when cost-benefit is measured several years after inception of the interventions, rather than at the beginning.

Many of the cost-benefit analyses published in the literature are based on the return on investment of “wellness” programs only, meaning health promotion programs aimed at improving the personal health practices of employees. It is important to note, however, that these programs are unlikely to have much, if any, effect on employees who work in a toxic psychosocial work environment. The greatest gains are those that occur when health promotion programs are implemented in a workplace that is already an open, trusting, and supportive work environment.

A few examples from the published literature are as follows:

- > **BC Hydro:** For every \$1 spent on the organization’s wellness program, the company saved an estimated \$3 (after running 10 years).<sup>42</sup>
- > **Canada Life Insurance:** The company saved \$3.43 for every \$1 spent on its fitness program.<sup>43</sup>
- > **University of Michigan:** For every \$1 USD spent on workplace health programs, savings were estimated at \$1.50 to \$2.50 USD.<sup>44</sup>
- > **Dupont (USA):** For every \$1 USD spent on a company health promotion program, the company saved \$2.05 USD on disability after 2 years.<sup>45</sup>

- > **Citibank:** For every \$1 USD the company spent on its comprehensive health program, there was a savings of \$4.56 USD.<sup>46</sup>
- > **Pillsbury Company:** For every \$1 spent on wellness, the company saved \$3.63 in health-related costs.<sup>47</sup>
- > **8 Halifax organizations:** For every \$1 spent on wellness, these organizations saved \$1.64 on average, per person,<sup>48</sup> plus:
  - \$2.04 for participants with 3-5 risk factors
  - \$3.35 for smokers
- > **Coors Brewing Company:** For every \$1 spent on a fitness program, the company saved \$6.15.<sup>49</sup>
- > **Telus-BC:** The company saved \$3 for every \$1 spent on corporate health initiatives.<sup>50</sup>
- > **A large diversified multi-site industrial setting:** For every dollar spent on workplace health promotion, \$2.05 was saved after 2 years.<sup>51</sup>

In an article published by Wisconsin Public Health and Health Policy Institute in 2005, the following table summarized the return on investment of health promotion programs at several large corporations: *Per dollar return on investment:*<sup>52</sup>

Coors	\$6.15
Kennecott	\$5.78
Equitable Life	\$5.53
Citibank	\$4.56
General Mills	\$3.90
Travelers	\$3.40
Motorola	\$3.15
PepsiCo	\$3.00
Unum Life	\$1.81

In many cases, major changes can be made in workplaces *without spending a penny in direct costs*. Changing a supervisor's management style to one that is more supportive doesn't cost money. Showing respect for workers doesn't cost money. Asking for input from employees on problems that affect them doesn't cost money. Yet, all of these things can make significant changes to the workplace environment, and improve the mental and physical well-being of employees tremendously.

## B. Organizational Profile

In addition to the direct and indirect costs outlined above, there is another business issue that impacts any company. That is the nature of their reputation, or organizational profile. While hard to quantify, no CEO would argue with the idea that their corporate image with the population is incredibly important in relation to the prosperity and success of the company.

### 1) Employer of Choice

With an aging population and baby boomers starting to retire in large numbers, human resource professionals recognize that it will become increasingly difficult to find and retain good employees in the very near future. There are many studies exploring the diverse values of different generations of workers. Many of these indicate that younger workers are much more interested in work-life balance than earlier generations of workers. As well, older workers who can afford to retire will not be retained through financial incentives, but are also looking for more respect and flexibility in the workplace. As a result, becoming an employer of choice to attract, recruit and retain good workers will more and more depend on creating a healthy workplace that goes far beyond legislated minimum standards.

### 2) Corporate Social Responsibility

Expectations for the role of business and how it fulfills its responsibility to society are rising, and investors are increasingly focused on how organizations meet this expectation. For example, in a study by Ernst and Young, researchers found that 35% of the valuation decision of investors is based on non-financial factors such as human capital.<sup>53</sup> Maureen Shaw, President and CEO of IAPA (Industrial Accident Prevention Association) notes,<sup>54</sup>

*"As mounting concern over the environmental and health and safety impact of business coalesced into new legislation and standards of corporate conduct, our expectations of corporate leaders also evolved. Their business responsibilities expanded to include:*

- > *Ensuring health, safety, wellness and security of employees*
- > *Management and conservation of natural resources*
- > *Compliance with regulations and legislation*
- > *Minimizing pollution*
- > *Minimizing waste/recycling."*

The Conference Board of Canada identified nine drivers, or corporate business benefits for corporate social responsibility:<sup>55</sup>

- > Reputation and brand management
- > Business risk management
- > Employee recruitment, motivation and retention
- > Access to capital
- > Learning and motivation
- > Cost savings and operational efficiency
- > Competitiveness and market positioning
- > Social license to operate: improved relations with regulators
- > Organizational transformation and continual improvement

### 3) “Social Exhaust”

While Corporate Social Responsibility includes traditional health and safety, as well as direct support for community initiatives and concerns, it also includes the ways that employees are treated while at work. Using an environmental pollution metaphor, Dr. Martin Shain, Senior Scientist at the Centre for Addiction and Mental Health, has spoken for years about the “social exhaust” that companies spew out into society.<sup>56</sup> Workers enter the workplace and then leave at the end of their shifts either better or worse for their experience at work. If employees leave work angry because of their unfair or abusive work experiences, they may exhibit road rage on the way home or abuse family members or pets at home, and increase the costs of law enforcement in their communities. If they leave work demoralized and depressed, they may have heart attacks or develop clinical depression, and contribute to health care costs in their communities. All of these factors will encourage a withdrawal from society, a decrease in volunteerism, and a downward spiral for the communities affected. Conversely, a workplace that creates a healthy, positive and encouraging culture that buoys up and energizes its workers, is likely to contribute in a positive way to the communities it serves. These factors cannot be hidden from stakeholders. Creating a positive organizational profile adds value for customers, clients, citizens and other stakeholders, including employees.

## C. The Legal Case

Another business concern relates to legal issues. Running afoul of the law can not only result in costly fines and financial penalties, but can also ruin a company’s reputation in the court of public opinion.

Most employers are concerned about their “due diligence” and want to ensure that, at a minimum, they are in compliance with all laws related to the workplace. So, what does the law say about employers’ responsibility to provide a healthy workplace?

The law related to creating a safe and healthy physical work environment – Ontario’s *Occupational Health and Safety Act* and Regulations – is relatively clear and unambiguous. Consequently, this document will concentrate on the legal requirements for employers and employees to deal with the other two avenues of workplace health – the organizational culture (psychosocial work environment) and the personal health resources provided for employees.

### 1) Due Diligence

Canada’s Criminal Code was revised in October 2003 (Bill C-45) to include a duty for workplaces to prevent injury. Specifically, the Code states, in section 217.1 that, “Every one who undertakes, or has the authority to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.”<sup>57</sup> This may seem clear enough, but the Code defines “bodily harm” very broadly: “any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature.”<sup>58</sup>

Interfering with “health or comfort” is a very inclusive statement, and could be interpreted to apply to a wide range of conditions, from being exposed to second-hand smoke to feeling uncomfortable due to verbal comments or harassment. Until case law exists to further define the way this will be interpreted by the courts, it is not clear how this legislation will apply to comprehensive workplace health.

Ontario’s *Occupational Health and Safety Act* states that employers must take “every precaution reasonable under the circumstances” to protect their workers’ health and safety. However, the general duty of due diligence has historically been applied only to the physical aspects of the workplace. As we learn more and more about the negative health and safety implications of demand, control, effort and reward, do employers

have an increasing responsibility to “do no harm” to workers by controlling psychosocial hazards in the workplace?

Dr. Martin Shain, a lawyer by profession, argues that *“there is a solid legal basis [in case law] to support claims that certain types of stress at certain levels are hazards under health and safety rules and that employers have a duty to abate such hazards at the source under the general requirements of due diligence.”*<sup>59</sup> Shain states, *“Science, law and emerging best practices in human resource management all point to the ascendance of a duty of care to avoid reasonably foreseeable harm to the emotional or mental health of others within our spheres of interest at work. The strength of the evidence is such that the duty to avoid reasonably foreseeable harm can be considered to have the weight of law behind it, the foundations of science beneath it and the beacon of common sense ahead of it.”*<sup>60</sup>

This position was supported in a 2003 Ontario case, *Zorn-Smith v. Bank of Montreal*, 2003 OJ 5044 (Ont. S.C.J.). A long-term employee sued the bank for wrongful dismissal after being driven into depression due to an unreasonable workload and then being terminated while on disability leave. The court found in favour of the employee, stating, *“This callous disregard for the health of an employee was flagrant and outrageous. That Susanne Zorn-Smith would suffer a further burnout was predictable – the only question was when it would come. It was foreseeable that such a burnout would cause her mental suffering. I find that the Bank’s conduct was the primary cause of Susanne Zorn-Smith’s adjustment disorder with depressed and anxious mood.”*<sup>61</sup>

In another case in the UK, damages of \$1.6 million (USD) were awarded to a former employee of Cantor-Fitzgerald, a brokering firm, who claimed he was driven to quit his job by the abuse and bullying of his boss. In awarding the settlement, the judge stated, *“I reject as fallacious the proposition...that where very substantial sums are paid by an employer, he acquires the right to treat employees according to a different standard of conduct from that which might otherwise be required... Whatever the environment, however rich and powerful the boss, whatever the rewards, there are standards below which no employer should go.”*<sup>62</sup>

While the Zorn-Smith case cited above was an early warning for employers in Ontario, since then the number of such cases has increased, as have the dollar

values of the settlements, with the most recent being a nearly \$1 million settlement against the RCMP in the *Sulz v. RCMP* case (see Litigation, above).

Principals of the Stringer Brisbin Humphrey management law firm noted in a 2005 presentation,<sup>63</sup>

*“The message is clear. Judges and arbitrators are determined to ensure that the implied term of the employment contract incorporating a right to a workplace environment and interactions consistent with an employee’s health and well-being is meaningful. Ontario Workplace Safety and Insurance Appeals Tribunal appears prepared to extend worker compensation benefits to employees who experience traumatic mental stress as a result of an aggressive, hostile or abusive interaction with colleagues or managers. These recent decisions disclose that the consequences for anyone in a workplace who engages in or allows conduct that threatens an employee’s well-being and undermines their right to a civil, respectful workplace will be severe. Employers who fail to set standards to establish and deliver standards of civil, respectful workplaces risk exposure to the following:*

1. Constructive dismissal damages
2. Tort damages
3. Special damages for economic loss
4. Increased workers’ compensation costs.”

## 2) Legislation Related to Personal Health Practices

There is no legal requirement in Canada or elsewhere (to this author’s knowledge) requiring an employer to support, encourage or require a healthy lifestyle among its employees. To the contrary, there may be provisions in various human rights codes and laws that could prevent discrimination or harassment by employers on the basis of lifestyle factors, such as smoking, obesity, lack of physical activity, or unhealthy dietary practices. The only legal trend related to lifestyle factors in Ontario is the current law making all workplaces smoke-free. However, this in no way prevents employees from continuing to smoke, as long as it is not within the workplace and does not expose non-smokers to second-hand smoke.

### 3) Legislation Related to the Organizational Culture (Psychosocial Environment)

The province of Québec, Canada, has legislation that came into effect June 1, 2004, making psychological harassment in workplaces illegal. Amendments to Québec's *Labour Standards Act* give employees the right to a work environment free from psychological harassment and oblige employers to prevent psychological harassment and put a stop to it whenever they become aware of it.

This Act 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."* A single serious incidence of such behaviour that has a lasting, harmful effect on an employee also constitutes psychological harassment.<sup>64</sup>

The province of Saskatchewan, Canada, followed Québec's lead three years later, and in 2007 amended their *Occupational Health and Safety Act* to broaden the definition of harassment. In addition to harassment based on the traditional grounds of race, creed, religion, etc., the definition now includes, *"any inappropriate conduct, comment, display, action or gesture by a person that...adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated, and that constitutes a threat to the health or safety of the worker."*<sup>65</sup>

Outside Canada, the UK has debated instituting legislative or quasi-legislative provisions to limit stress in the workplace.<sup>66</sup> The Health and Safety Executive (HSE), which enforces health and safety legislation for most industries in the UK, has developed Management Standards designed to provide guidance to employers in this area. The standards are related to six areas of workplace stress where there is ample scientific evidence of health effects:

- > Demands of the job
- > Employee control over how they work
- > Support from management and colleagues
- > Working relationships
- > Role clarity
- > Organizational change

It is noteworthy that at present the Standards provide guidance only, in a continuous improvement process that does not have the force of legislation.

The HSE has inspectors who offer advice to employers about how to comply with legislation. When necessary, they may write orders in the form of an "Improvement Notice" or IN, which gives an employer a certain amount of time to comply with the orders before prosecution would occur. Several INs were issued for work-related stress in 2004, but they were issued under the general "duty of care" requirements of the UK's *Health and Safety at Work Etc Act 1974* rather than under the new standards. It is anticipated that the Management Standards will be used to help employers reduce workplace stress in cases where employees or the HSE raise concerns. The standards include a tool that organizations can use to self-assess their workplaces, based on employees' perceptions of their working conditions.

These Management Standards were formally launched in November, 2004. The HSE promised to actively promote their use, especially in sectors known to be doing poorly in stress management.<sup>67</sup>

Ontario has no similar legislation or formal standards to regulate behaviour or culture in an organization. Nevertheless, employers are being increasingly held to a higher standard to provide a "civil and respectful workplace." The Zorn-Smith case was just the beginning, and settlements have been growing exponentially, with the RCMP settlement of close to \$1 million being the highest to date. In Ontario, legal enforcement of a healthy workplace is not dependent on specific legislation. Rather, the enforcement is coming through the growing number of court and arbitral decisions that are defining clear common law standards in support of a "civil and respectful workplace".

At the time of writing, there is a private member's bill, Bill 29, *An Act to Amend the Occupational Health and Safety Act to protect workers from harassment and violence in the workplace* before the Ontario legislature, which passed first reading in December 2007. The Bill amends the Act to require employers to protect workers from harassment and violence in the workplace, to give workers the right to refuse to work in certain circumstances when faced with harassment or violence, to require an investigation of allegations of workplace related harassment and violence, and to require employers to take steps to prevent further

occurrences of workplace related harassment or violence. It remains to be seen whether this Bill will become part of Ontario's law.

## V. Implementation Processes and Tools

Creating a healthy workplace is something that takes time and persistence, but is not otherwise difficult. Having said that, there is no "one size fits all" approach that will be appropriate for every workplace.

A common approach is that suggested by Health Canada in their Workplace Health System. This consists of seven steps:

1. Gain commitment
2. Set up a committee
3. Do a needs assessment
4. Analyze the health profile
5. Develop a 3-5 year Health Plan
6. Develop specific Action Plans
7. Review and evaluate.

For a more detailed explanation of these steps, refer to IAPA's free download, "*Steps to Creating a Healthy Workplace*"<sup>68</sup> or the Public Health Agency of Canada's website, which contains the original Health Canada documents on the Workplace Health System.<sup>69</sup>

### A. Effective and Validated Tools

There are literally dozens of assessment tools available for workplaces that wish to assess these factors. An in-depth evaluation and analysis of many of these tools has been completed by the University of Toronto's Centre for Health Promotion, through The Health Communication Unit (THCU).<sup>70</sup> Twenty-nine recommended or promising Situational Assessment Tools have been identified, and are available on THCU's website: <http://www.thcu.ca/workplace/sat/index.cfm>. These tools are divided into six categories:

- > Needs assessments
- > Health risk appraisals
- > Workplace environmental audit
- > Employee interest surveys
- > Current practice surveys
- > Organizational culture surveys

Some of these tools are in the public domain, while others are proprietary, and there are varying costs associated with them. The THCU resource tool can help you choose one that meets your needs. Or, you may choose to work with an external consultant such as IAPA or one of the other health and safety associations, which may assist you in developing your healthy workplace.

## VI. Summary

Anecdotal evidence suggests that most employers that embark on a quest to make their workplaces healthy in the comprehensive way suggested in this document do so because they believe it is the right thing to do.<sup>71</sup> It is rare for an indifferent employer to be convinced by business arguments and figures alone to wholeheartedly embrace a healthy workplace approach. But any employer that desires to have a healthy workplace will want a solid business case to support his or her decision to start the company in this direction. And the business case is solid. When the big picture is evaluated, the evidence is overwhelming. There are solid financial, legal and organizational profile costs for ignoring an unhealthy, unsafe workplace, and solid financial benefits for creating a healthy workplace.

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