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MENTAL DISORDER IN CANADIAN CRIMINAL LAW

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Publisher's Release Note

This publication provides practitioners with a quick and easy reference tool, while keeping them up to date with the latest jurisprudential and legislative developments arising under Part XX.1 of the *Criminal Code*. The reader will be given a thorough analysis of all the issues arising under Part XX.1 including an examination of mental disorders, such as automatism, and the not criminally responsible defence (NCR), assessment orders and fitness to stand trial determinations, disposition hearings, fitness dispositions and their review, review board and appeal processes and procedures, and a discussion of mental disorder in a non-NCR context.

This release features updates to Chapters 2 (Assessment Orders), 3 (Fitness to Stand Trial), 4 (The NCR Defence), and 6 (Mental Disorder in an Non-NCR Context).

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Highlights

- **Assessment Orders—The Application Process—Timing of Order—**Section 672.12(1) of the *Criminal Code* which permits a court to make an assessment order "at any stage of the proceedings" does not violate the constitutional right of an accused to control his or her defence recognized in *Swain*: *R. v. Babor*, 2026 ONCA 428, 2026 CarswellOnt 10034 (Ont. C.A.) at para. 54.
- **Mental Disorder in a Non-NCR Context—Mental Illness and the Reliability of Evidence—**It is not prohibitive myth-based or stereotypical reasoning to negatively assess the reliability of a complainant's testimony based on mental illness provided there is case-specific evidence of this during the timeframe of the allegations: *R. v. C.P.*, 2026 ONCA 333, 2026 CarswellOnt 7613 (Ont. C.A.) at para. 18.