



Health Care Section 21 Committee¹

Guidance Note for Workplace Parties # 8 Workplace Violence and Harassment

September, 2024

About This Guidance Note

This Guidance Note has been prepared to assist the workplace parties in understanding their obligations under the *Occupational Health and Safety Act* (OHSA) and the regulations. It is not intended to replace the OHSA or the regulations and reference should always be made to the official version of the legislation.

It is the responsibility of the workplace parties to ensure compliance with the legislation. This Guidance Note does not constitute legal advice. If you require assistance with respect to the interpretation of the legislation and its potential application in specific circumstances, please contact your legal counsel.

While this Guidance Note will also be available to Ministry of Labour, Immigration, Training and Skills Development (MLITSD) inspectors, they will apply and enforce the OHSA and its regulations based on the facts as they may find them in the workplace. This Guidance Note does not affect their enforcement discretion in any way.

Process

This document has been reviewed by the management and labour representatives of the Ontario Health Care Health and Safety Committee under Section 21 of the OHSA to ensure that appropriate, consistent information is made available to healthcare workplaces, and to support them in their review of legislative requirements and assessing and implementing best practices.

¹ The Ontario Health Care Health and Safety Committee under Section 21 of the *Occupational Health and Safety Act* ("Health Care Section 21 Committee") was announced by the Minister of Labour (now the Minister of Labour, Immigration, Training and Skills Development) on September 18, 2006. The July 11, 2006 Terms of Reference set out its mandate. The objective of the Health Care Section 21 Committee is to advise and make recommendations to the Minister of Labour, Immigration, Training and Skills Development on matters relating to occupational health and safety of all health care workers in Ontario. The scope of the Health Care Section 21 Committee is to review occupational health and safety issues related to health care workers that have provincial impact.

Guidance Notes are presented to the Ministry of Labour, Immigration, Training and Skills Development prior to publication. The recommendations made in Guidance Notes are not endorsed by the Ministry of Labour, Immigration, Training and Skills Development but are intended to clarify legislation and cite best practices.

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Original: June, 2010

Revised: September, 2024

Purpose of this Guidance Note:

Health Care Guidance Notes are intended for all healthcare organizations, to provide advice to workplace parties related to legislative requirements and best practices applicable to the prevention of illness and injury to health care workers. Health Care Guidance Notes may be of assistance to all organizations that provide healthcare, treatment, diagnostic services, personal care and/or supportive services in all healthcare organizations, home and community service agencies and emergency medical services.

The intent of Guidance Notes is to assist the workplace parties in sharing best practices. Guidance Notes are also intended to assist other parties who have decision-making roles that ultimately impact occupational health and safety (OHS) in the health care sector.

See *Appendix C for the Health Care Section 21 membership*.

Introduction

As of June 15, 2010, the *Occupational Health and Safety Act* (OHSA) was amended to include specific requirements to strengthen the protection of workers from violence and harassment in the workplace. On March 8, 2016, these existing OHSA obligations were supplemented with new requirements with respect to workplace harassment, including workplace sexual harassment, in workplaces across Ontario.

The OHSA sets out the duties of workplace parties respecting workplace violence and harassment (Part III.0.1). The general duties under the OHSA for employers [section 25], supervisors [section 27] and workers [section 28] continue to apply with respect to workplace violence [section 32.0.5]. This includes the duty employers and supervisors have to take every precaution reasonable in the circumstances for the protection of workers. While all the workplace parties have responsibilities under the OHSA for the prevention of workplace violence, employers have the most responsibility under Part III.0.1.

Health Care Workers have an obligation to comply with the worker duties under the OHSA; they should also adhere to their employers' measures and procedures for the prevention of workplace violence.

There are also requirements in the Health Care and Residential Facilities regulation [HCRF O. Reg. 67/93 sections 8, 9 and 10] and O. Reg. 420/21 [s.3] that may be applicable to violence in the workplace.

Workplace harassment, which can include bullying, may escalate over time into threats or acts of physical violence. For more information about bullying and its relationship to workplace violence see the following section on *Aggressive and Disruptive Behaviour*.

This guidance note is intended to assist workplace parties:

- To understand their legislative responsibilities when developing and maintaining a workplace violence and harassment policy and program;
- To identify potential gaps in their workplace violence and harassment policy and program;

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- By offering guidance on specific measures and procedures that would be considered good practices to reduce the risks of workplace violence and harassment in health care.

We encourage all workplace parties, including employers and inspectors, to use the information and tools provided in this guidance note and appendices to audit workplace violence and harassment policies and programs to assist them in complying with the legislation.

A checklist of actions found in Appendix A may assist the workplace parties to address workplace violence provisions in the OHSA.

Information to assist workplace parties to conduct an investigation of a report of workplace violence can be found in Appendix D.

A list of references is provided at the end of this document in Appendix B. It includes the MLITSD Guide entitled “Workplace Violence and Harassment: Understanding the Law”.

OHSA Definitions

- **“Workplace harassment”** means:
 - (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
 - (b) workplace sexual harassment.
- **“Workplace sexual harassment”** means:
 - (a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
 - (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.
- **“Workplace violence”** means:
 - (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
 - (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
 - (c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Examples of workplace violence may include:

- verbally threatening to attack a worker
- leaving threatening notes at or sending threatening e-mails or calls to a workplace
- shaking a fist in a worker's face
- wielding a weapon at work (e.g. contaminated syringe, scalpel, scissors, knife etc.)
- hitting or trying to hit a worker
- throwing an object towards a worker
- sexual violence against a worker

Examples of workplace harassment may include:

- hazing or unwelcome pranks
- offensive or intimidating comments or jokes
- spreading malicious rumours, gossip or innuendo in the workplace or on social media if it is linked to the workplace
- sharing someone's personal information using information technology (e.g., doxing)
- persistently criticizing, demeaning or ridiculing a person
- vandalizing or hiding personal belongings or work equipment
- undermining or deliberately impeding someone's work
- displaying or circulating offensive pictures or materials
- workplace sexual or gender-based harassment
- isolating or excluding someone intentionally
- aggressive or threatening gestures
- inappropriate staring

Aggressive and Disruptive Behaviours

Aggressive and disruptive behaviours by all persons in the workplace (e.g. patients, clients, residents, visitors, volunteers, physicians, staff, students and others) may escalate to workplace harassment and/or workplace violence affecting workers. This should be taken into consideration when developing the workplace violence and harassment policy and program. Resources are available from the Public Services Health and Safety Association and others as set out in Appendix B.

Bullying (can also be known as horizontal or lateral violence) falls into the category of aggressive and disruptive behaviour and can meet the OHSa definition of "workplace harassment" or "workplace violence". Some of the foundational definitions on bullying can help identify this type of activity in the workplace:

- "repeated and persistent negative acts towards one or more individuals, which involves a perceived power imbalance and creates a hostile work environment (Salin, 2003, p. 1214)."

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- “behaviour by an individual or individuals within or outside an organization that is intended to physically or psychologically harm a worker or workers and occurs in a work-related context.” (Schat & Kelloway, 2005, p. 191)
- Bullying, as aggressive behaviour, can range from physical assault to psychological abuse (Barling et al., 2009, p. 673).
- “Bullying usually involves repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression.” (CCOHS, 2020)
- Lateral or horizontal violence: “...inappropriate, offensive, abusive, aggressive, negative, intimidating, or insulting work-related behaviour or abuse of power, which directly or indirectly undermines confidence, devalues ability, or lowers the self-esteem of a worker. Bullying can lead to, and/or be comprised of, lateral violence from co-workers.” (Canadian Federation of Nurses Union)

Bullying ultimately represents a constellation of behaviours which has a range of severity. It can take place over a period of time and is intended to cause harm to a worker or group of workers. As a type of aggressive and disruptive behaviour, bullying should not be tolerated in any workplace,

Developing a Workplace Violence and Harassment Policy and a Program

The OHSA requires employers to develop a workplace violence policy. They must also develop and maintain a program to implement that policy, which must include:

- measures and procedures to control the risks identified in the required assessment as likely to expose a worker to physical injury.
- measures and procedures for summoning immediate assistance.
- measures and procedures for reporting incidents to the employer or supervisor.
- how the employer will investigate and deal with incidents or complaints of workplace violence.

Similarly, the OHSA requires employers to develop a workplace harassment policy. They must also develop and maintain a program to implement that policy, which must include:

- measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor.
- measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor if the employer or supervisor is the alleged harasser.
- set out how incidents or complaints of workplace harassment will be investigated and dealt with.
- set out how information obtained about an incident or complaint of workplace

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harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

- set out how a worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.

The workplace violence and harassment provisions of the OHSA also provide that:

- The employer duties set out in section 25, the supervisor duties set out in section 27, and the worker duties set out in section 28 apply, as appropriate, with respect to workplace violence.
- Employers are required to provide workers with appropriate information and instruction on the contents of the policy and program.
- Employers provide workers with information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if the worker can be expected to encounter the violent person in the course of his or her work and the risk of workplace violence is likely to expose the worker to physical injury. No employer or supervisor shall disclose more personal information than is reasonably necessary.
- An investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances.
- The worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation.

Additional duties of the OHSA that apply to workplace violence include:

- Maintaining all equipment (e.g. security cameras and personal alarms), materials and protective devices in good condition
- Reporting to the Joint Health and Safety Committee (JHSC) or Health and Safety Representative (HSR), to the Union and to the MLITSD incidents where a person is killed or critically injured and which includes incidents in which workplace violence is the cause. Notice must also be given to the JHSC/HSR and union if a person is disabled from doing his or her usual work or requires medical attention because of an incident of workplace violence. An inspector may require that a Director of the Ministry also be notified [see subsection 52(1) of the OHSA].
- Reassessing the risks of workplace violence as often as is necessary to ensure that the related policy under clause 32.0.1 (1) (a) and the related program under subsection

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32.0.2 (1) continue to protect workers from workplace violence in accordance with subsection 32.0.3(4)] of the Act. This may include assessing if specific measures and procedures that are part of the workplace violence program continue to control new risks of violence identified as a result of workplace incidents, worker concerns, or changes made to the work or workplace.

When reassessing risk, the employer should determine the root causes of violent incidents to determine which measures and procedures in the program apply to it, and whether these measures and procedures need to be updated to ensure that workers are protected from workplace violence in the future.

In all workplaces subject to the *Regulation for Healthcare and Residential Facilities* (e.g. hospitals, psychiatric facilities, long-term care homes, and facilities such as intensive support residences or supported group living residences; see section 2 of Regulation for a complete list) all measures and procedures for the health and safety of workers and training on those measures and procedures must be developed in consultation with the Joint Health and Safety Committee or Health and Safety Representative. This would include measures and procedures to control the risks of workplace violence. All measures and procedures must be in writing.

For all other workplaces not subject to the Regulation for Health Care and Residential Facilities, it is considered good practice for employers to develop and implement measures, procedures and training in consultation with the Joint Health and Safety Committee or Health and Safety Representative (if any).

Workplace Violence Risk Assessment

The OHS Act requires all workplaces to prepare an assessment of the risk of workplace violence and to conduct a reassessment of risks as often as necessary to ensure the policy and any measures and procedures under the program continue to protect workers from workplace violence.

Under the OHS Act, employers are required to assess the risks of workplace violence that may arise from:

- the nature of the workplace
- the type of work, or
- the conditions of work

The nature of the workplace refers to the physical aspects of the workplace and may include workplace lighting, lines of sight, counter depth and barriers, entrance and exit security as well as objects that could be used to physically injure workers.

The type of work refers to the activities workers perform and the people with whom workers interact. In health care this includes caring for patients, clients and residents and interacting with family members and other members of the public.

The conditions of work refer to other aspects such as the time of work (e.g., shift work), the environment and whether workers move from location to location, work alone or in isolation.

In carrying out the assessment, employers must consider:

- circumstances common to similar workplaces, and
- circumstances specific to the workplace

An initial risk assessment should include:

- Assessment of the physical environment,
- Assessment of work practices, conditions and the nature of work (patients, clients, residents, families and the community, working alone/in isolation),
- Assessment of current measures and procedures including response protocols (e.g., Code White) and prevention protocols (e.g., Code of Conduct).

At a health care workplace (which may be a facility, a client's home or in the community) this could include an assessment of the risks of workplace violence associated with:

- interactions with patients, clients, residents, family members and members of the public at the workplace, including those with a known history of violence.
- workplace equipment and materials that may be used by patients, clients, residents, family members and member of the public to physically injure a worker (e.g., objects such as sharps, office furniture etc).
- work protocols and procedures inherent to the work of health care personnel and specific to the workplace.
- current measures and procedures that are in place to protect workers from workplace violence.
- physical aspects of the workplace in general e.g., lighting, layout, access, security, parking lot location, security cameras, etc.
- conditions of work such as shift work, working alone, staffing shortages, random acts of violence that may arise due to a surrounding high crime neighbourhood, etc.
- known risks at health care workplaces based on previous workplace incidents.
- known risks at health care workplaces identified in other similar workplaces.

Reassessing the Risk of Workplace Violence

A reassessment of the risks of workplace violence is required as often as necessary to ensure that the workplace violence policy and program continues to protect workers. The employer is also required to advise the Joint Health and Safety Committee or a Health and Safety Representative if any, of the results of both an initial assessment and a reassessment of workplace violence, and to provide a copy if it is in writing. If there is no JHSC or Health and Safety Representative, the employer is required to advise the workers of the results, and if the assessment or reassessment is in writing, provide copies on request.

What Triggers a Workplace Reassessment?

When a situation arises in which a worker may be at risk of workplace violence or following an actual incident of workplace violence, the employer should, as part of the reassessment, review existing measures and procedures to determine if such measures are adequate to protect workers. If gaps are identified or circumstances have changed since the last risk assessment, the employer should update the relevant measures and procedures under the workplace violence program to ensure that workers continue to be protected from workplace violence. It is a good practice for the reassessment to take place in consultation with the JHSC or HSR.

Examples of situations that may lead to reassessing the risk of workplace violence are:

- Where normal staffing levels have diminished and the patient/client/resident population and numbers remain the same
- Where the physical environment has changed.
- Where the patient/client/resident population changes (e.g. staff to patient/client/resident ratio changes patient/client/resident type changes).
- Where there have been assaults on workers where previously there had been none.

Summoning Immediate Assistance

The OHSA requires employers to develop and include measures and procedures to summon immediate assistance in its workplace violence program. For example, one such measure and procedure may include the requirement for workers to wear personal alarms. OHSA clause 32.0.5(2)(a) states that the employer shall provide workers with information and instruction appropriate for the policy or program which should address the wearing of personal alarms, where required. If workers wear personal alarms in workplaces to which the *Health Care and Residential Facilities Regulation* applies, the employer must also ensure that workers are trained on the care, use and limitations of the devices before wearing and using them for the first time and at regular intervals thereafter.

It would also be a good practice for the measures and procedures on personal alarms to contain a requirement for workers to test the alarms before a worker begins their shift.

Employers are reminded that workers must be provided with information and instruction on the contents of the workplace violence policy and program, which would include ensuring that workers are instructed on how to summon immediate assistance in various scenarios where there is a risk of workplace violence. Refer to OHSA clause 32.05(2)(a) and (b), clause 25(2)(a) and section 9 (4) of the health care and residential facilities regulation for more details with respect to providing information, instruction, training and education to workers.

Regardless of the type of workplace, measures and procedures for summoning immediate assistance need to be reliable and continue to be in effect.

Different response protocols should be developed to respond to different types of threats. Common standard emergency response codes used by acute care facilities and many long-term care facilities for violence include the following non-exhaustive list:

- **Code White:** Patients, residents, clients and/or visitor violent/behavioural situations

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- **Code Black:** Bomb threats
- **Code Purple:** Hostage situations
- **Code Amber:** Infant/Child Abduction

Some non-standard codes have been adopted for certain workplace violence conditions such as Code Silver for violence involving a weapon. Response codes should include detailed protocols, which will include the means for summoning immediate assistance. These can include alarm buttons at the nurses' station and other strategic locations, and/or personal emergency call/locator badges, as well as other wireless devices.

Most of the responses described above are appropriate in acute care workplaces. Employers in other types of workplaces such as long-term care and community care should consider situations, unique to those workplaces, which may require a worker to summon immediate assistance and develop appropriate measures and procedures to do so.

Examples of measures and procedures to summon immediate assistance in community care settings:

- Use a cell phone, or a personal alarm that is linked to a security company's monitoring system or similar wireless systems.
- Use a cell phone with an embedded GPS unit
- Require workers to have emergency telephone numbers handy
- Assign two workers to a visit when there is a history of violence or the potential for violence in the home or area where home is located
- Ensure the communication process and device works in the environment the worker is travelling to.
- Assign two workers to a visit in a work location which is remote and where the usual communication devices do not work
- Establish Protocols for summoning the police

Examples of additional measures and procedures for community care settings:

- Interactive Voice Response (IVR) technology, using a telephone, can be an efficient way for personnel to register their arrival and departure from a location. In addition employers can disseminate critical information efficiently as the information is accessible to the user when they log in or out.
- Although not a means of the worker summoning immediate assistance, development of a sign-in/sign-out procedure that requires workers to advise the office when they arrive and leave (check-in procedures) could alert the employer to contact worker and/or send help, i.e. in the event a worker fails to contact the office at an anticipated time.

Examples of measures and procedures to summon immediate assistance in long-term care homes:

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- A personal alarm linked to a security company's monitoring system with due consideration to response times
- A walkie-talkie or personal alarm such as a noisemaker that will alert other staff to a problem, considering whether staff are regularly in hearing range and in consideration of response times
- Cell phones with emergency numbers preprogrammed
- Alarm buttons placed in strategic locations which summon assistance (e.g. a group of appropriately trained workers)
- Require workers to have emergency telephone numbers handy
- Establish protocols for summoning the police

Applying the hierarchy of controls

An Ontario Public Service Employees Union (OPSEU) toolkit provides an overview of how the hierarchy of controls can be applied to workplace violence. Once the hazards have been identified and assessed, the likelihood of harm need to be controlled. The employer (with the JHSC's input) must build the workplace violence program and specify controls to minimize each identified hazard.

Types of controls:

- **Engineering controls.** These are controls that physically change the workplace or the work to minimize the hazard for the worker. These look to eliminate or substitute the hazard for something less harmful (e.g., glass panels, locked rooms, etc). These are the best type of controls but are not always possible, for example:
 - o changing floor plans to make exits more accessible and visible; improving lighting;
 - o installing mirrors to see around corners;
 - o installing metal detectors and emergency buttons;
 - o controlling access to certain areas; and/or
 - o enclosing the nurses' station.
- **Administrative controls.** These are measures that limit how work is done or that control the worker. They include: policies on how to interact with escalating behaviour, code white policies, isolation room procedures, scheduling, etc. These are necessary controls, especially if the hazard cannot be "engineered out." They could include, for example: procedures and tools for assessing and periodically reassessing patients' potential for violent behavior;
 - o threat assessments when a patient is admitted and periodically afterwards;
 - o code white policies;
 - o procedures for tracking and communicating information about patient behaviour;
 - o special procedures for patients with a history of violent behaviour;
 - o adequate staffing on all units and shifts; and
 - o policies and procedures that minimize stress for patients, visitors, and others.

The “hierarchy” of controls

Some controls are better than others, depending where they are:

- at the source: addresses the hazard itself. Removing or eliminating the hazard is not always possible.
- along the path: does not remove the hazard, but rather puts a barrier or a protection between the hazard and worker (e.g., a wide counter at triage, glass partitions, etc).
- at the worker: does not remove the hazard or put up a barrier, but gives the worker training or equipment to use to minimize or protect herself from the hazard (e.g., non-violent crisis intervention training, puncture-proof sleeves, training to use pelvic restraints). This is the least effective of the controls and should only be considered as a last resort method, or layered with more effective controls.

External Threats of Violence

As part of a workplace violence program, employers should also have measures and procedures in place to deal with threats that may be communicated by phone, email or mail from outside the workplace. These measures and procedures should include a safety plan, mechanisms for reporting and responding to the threat, communicating the threat and safety plan to all workers at risk and implementing the safety plan. An example is Code Black emergency response protocol for bomb threats.

Communication, Instruction, Education and Training

In addition to completing the risk assessment and developing the workplace violence policy and program, the employer is required to provide appropriate information and instruction to workers on the contents of the workplace violence policy and program. In workplaces to which the Regulation for Health Care and Residential Facilities regulation applies, employers in consultation with the JHSC or HSR must provide training and education about health and safety measures and procedures. The employer should consider the level and type of training required. As the workers' risk of exposure to workplace violence increases, it may be appropriate for the employer to provide more comprehensive training in addition to considering enhanced control measures using a hierarchy of controls based on a risk assessment.

Work Refusal When the Hazard is Workplace Violence

Generally, workers have a right to refuse work where the worker has reason to believe workplace violence is likely to endanger himself or herself.

However, certain workers including health care workers have a limited right to refuse in specified circumstances including when a circumstance is inherent in the worker's work or is a normal condition of the worker's employment; or when the worker's refusal to work would directly endanger the life, health or safety of another person [OHSA, s.43(1)].

If a worker believes workplace violence is likely to endanger her or him, the employer must investigate the circumstance and take such action as necessary for the protection of the worker. For more information, please refer to subsections 43(4) of the Act.

For more information refer to OHSA Guide: Part V: Right to Refuse Work
https://www.labour.gov.on.ca/english/hs/pubs/ohsa/ohsag_part5.php

[Also refer to Guidance Note # 7: Right to Refuse Unsafe Work.](#)

Provision of Personal Information Regarding Persons with a History of Violent Behaviour.

The OHSA states that employers and supervisors must provide workers with information including personal information, related to a risk of workplace violence from a person with a history of violent behavior if the worker can be expected to encounter that person in the course of his or her work; and the risk of workplace violence is likely to expose the worker to physical injury. The OHSA does not set out who a person with a history of violent behaviour may be. For the purposes of this guidance note, once a person has demonstrated behaviour that meets the OHSA definition of workplace violence or has a known history of violence and which is assessed as placing a worker at risk in the workplace, he/she can be considered to be a person with a history of violent behaviour.

Employers must provide information related to a risk of workplace violence and this may include informing workers of the precautionary measures to be taken to protect them from a person with a history of violent behaviour. The employer and supervisor must provide information to help enable workers to protect him/her from physical injury from exposure to violence. This may include information sufficient to identify the person, the triggers of his/her potential aggression (if appropriate) and any measures and procedures to be followed.

One of the major concerns raised in the health care sector as a result of the amendments to the OHSA are questions of privacy and confidentiality of personal information. Under the Occupational Health and Safety Act, employers and supervisors must not disclose more information about a person with a history of violent behaviour than is reasonably necessary to protect workers from physical injury. [OHSA, s. 32.0.5(3)) and (4)].

Domestic Violence Awareness and Response Process

Domestic or intimate partner violence (IPV) is a major public health issue and has an enormous impact on the workplace. In addition, the victims of domestic violence are most frequently women and children. Therefore, as the health care industry is predominantly female, the likelihood of encountering incidents and the threat of domestic violence may be greater.

In addition to the other requirements under the OHSA mentioned above, the employer shall take every precaution reasonable in the circumstance to protect a worker in the workplace when they are aware, or ought to be aware, that domestic violence that would likely expose the worker to physical injury may occur in the workplace. Given that domestic violence situations often involve privacy considerations, any precautionary action taken by the employer should be conducted with respect and support for the targeted worker. When faced with the potential for domestic violence in the workplace, the employer may wish to seek advice or assistance from appropriate professionals, including lawyers, police services, victim support lines or victim crisis assistance and referral services.

When an employer becomes aware that there is a potential for domestic violence to enter the workplace, it is important that employers address it immediately and investigate the circumstances.

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Original: June, 2010

Revised: September, 2024

The PSHSA resource, “Addressing Domestic Violence in the Workplace” can be downloaded [here](#). In it, PSHSA gives the following examples of how employers can be proactive, and put the following precautions in place:

- a clearly stated policy on domestic violence;
- public education materials about help available to victims and abusers, displayed in accessible areas such as lunch rooms, washrooms, company website;
- regular training and education about domestic violence at all levels of the organization;
- policies about paid time off, extended leaves of absence and workplace relocation for victims of domestic violence, as well as accountability measures for abusers in the organization;
- employer procedures for handling an incident/potential incident and disclosing information on a “need to know” basis to protect confidentiality while ensuring worker safety;
- a list of services, such as the Employee Assistance Program (EAP), a local women’s shelter, the police and the Assaulted Women’s Helpline that can support the worker in various ways; and
- assistance in developing a personal safety plan that considers not only a worker’s needs at work and at home, but also those of her children.

The PSHSA handbook (also listed in Appendix D) also provides guidance on what actions supervisors and the joint committee can take, and elements that should be included in a workplace domestic education program.

Occupational health and safety measures and procedures developed to address workplace violence in workplaces where the Regulation for Health Care and Residential Facilities applies including hospitals, long-term care homes and developmental services must be developed, and implemented, in consultation with the JHSC and HSR. Measures and procedures in the workplace violence program can help protect workers from domestic violence in the workplace. Employers, in consultation with the JHSC or HSR, must also provide training and education about health and safety on those measures and procedures for workers that are relevant to their work.

For all other workplaces not subject to the Regulation for Health Care and Residential Facilities, it is considered good practice, for employers to develop and implement measures and procedures in consultation with the Joint Health and Safety Committee or Health and Safety Representative (if any).



Appendix A: Employers' Minimum Requirements Checklist Violence and Harassment Prevention

Check Yes or No: ✓

1. Prepared a Policy with respect to workplace violence and harassment?	☐ Yes	☐ No
2. Posted a written copy of the violence and harassment policy in a conspicuous place in the workplace?	☐ Yes	☐ No
3. Assessed the risks of workplace violence that may arise from the nature of the workplace, the type of work or conditions of work?	☐ Yes	☐ No
4. Advised the JHSC or an HSR or workers (where there is no JHSC or HSR) of the results of the risk assessment?	☐ Yes	☐ No
5. Provided a copy of any written assessment to the JHSC or HSR?	☐ Yes	☐ No
6. Where there is no JHSC or HSR, provided a copy of the assessment to workers on request or advise the workers how to obtain copies?	☐ Yes	☐ No
7. Reassessed the risks of workplace violence as often as necessary to ensure the related violence policy and program continues to protect workers and advised the JHSC or HSR of the results of the assessment and provided a copy, if the assessment is in writing?	☐ Yes	☐ No
8. Where there is no JHSC or HSR, provided a copy of the reassessment to workers on request or advise the workers how to obtain copies?	☐ Yes	☐ No
9. Developed and maintain a program to implement the workplace violence policy that includes: - Measures and procedures to control the risks identified in the risk assessment as likely to expose a worker to physical injury? - Measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur? - Measures and procedures for workers to report incidents of workplace violence to the employer or supervisor? - Set out how the employer will investigate and deal with incidents or complaints of workplace violence?	☐ Yes ☐ Yes ☐ Yes ☐ Yes ☐ Yes	☐ No ☐ No ☐ No ☐ No ☐ No

10. In consultation with the committee or a health and safety representative, developed and maintain a program to implement the workplace harassment policy that includes: - Measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor; - Measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser; - Set out how incidents or complaints of workplace harassment will be investigated and dealt with; - Set out how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law; - Set out how a worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation		
11. Reviewed the workplace violence and harassment policy as often as necessary, but at least annually?	☐ Yes	☐ No
12. Taken every precaution reasonable in the circumstances for the protection of workers with respect to workplace violence?	☐ Yes	☐ No
13. Taken every precaution reasonable in the circumstances for the protection of the worker when aware or ought reasonably to be aware that domestic violence may occur in the workplace that would likely expose the worker to physical injury?	☐ Yes	☐ No
14. Provided workers with information and instruction appropriate for the worker on the contents of the workplace violence and harassment policy and program?	☐ Yes	☐ No
15. Provided workers with information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if the worker can be expected to encounter the person in the course of their work, and the risk of violence is likely to expose the worker to physical injury?	☐ Yes	☐ No
16. In workplaces covered by the <i>Health Care and Residential Facilities Regulation</i> (e.g., hospitals, long-term care homes), consulted the JHSC or HSR when developing, establishing and putting into effect the workplace violence measures and procedures for the health and safety of workers?	☐ Yes	☐ No
17. In workplaces covered by the <i>Health Care and Residential Facilities Regulation</i> , ensured violence measures and procedures are written?	☐ Yes	☐ No

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Revised: September, 2024

18. In workplaces covered by the <i>Health Care and Residential Facilities Regulation</i> , consulted the JHSC or HSR in developing, establishing and providing training and educational programs in the violence related measures and procedures for workers that are relevant to the workers' work.	☐ Yes	☐ No
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Appendix B: Legislation, Codes, Standards and Guidelines

Workplace parties when following this guidance note should consider existing legislation, codes, standards and good practices such as the following:

Ministry of Labour, Immigration, Training and Skills Development Publications

Readers are encouraged to review the OHSA and its applicable regulations, focusing particular attention on the duties of workplace parties, when developing training, measures and procedures using the best available information. Current versions of the OHSA and its regulations are available for free download from the Government of Ontario e-Laws site:

<http://www.e-laws.gov.on.ca/navigation?file=home&lang=en>

- Workplace Violence and Harassment – Understanding the Law
<https://www.ontario.ca/page/understand-law-workplace-violence-and-harassment#section-5>
- [Workplace violence prevention in health care: A guide to the law for hospitals, long-term care homes and home care](#)
- [Code of Practice to Address Workplace Harassment](#)
- Guide to the Occupational Health and Safety Act, Part 5
[Part V: Right to Refuse or to Stop Work Where Health and Safety in Danger](#)

Guidance Notes

- OHS Education and Training GN3 (released, October 26, 2010)
- Effective Communications OHS Processes Section 21 GN1 (released January 07, 2010)

Resources:

- PSHSA – [Workplace Violence Resources](#) - [How to Investigate an Incident](#):
http://www.pshsa.ca/wp-content/uploads/2013/02/How_To_Investigate.pdf
- [Managing Disruptive Physician Behaviour](#) by the College of Physicians and Surgeons of Ontario (CPSO) and the Ontario Hospital Association (OHA)
- [Physician Behaviour in the Professional Environment](#) by the CPSO (updated May 2016)
- Add PSHSA Code White, Safe Transfer of Care, and Right to Refuse

Other Information

Web sites of the various healthcare unions, employers, associations and Health and Safety Associations also have additional information, including documents which outline a step-by-step process to help joint health and safety committees and health and safety representatives ensure workplace compliance, and sample written recommendations can be tailored to the needs of individual workplaces.



Appendix C: Health Care Section 21 Committee Membership

Health Care Guidance Notes have been prepared and approved by representatives of the Members of the Health Care Section 21 Committee.

Committee membership:

Members for Organized Labour:

- Canadian Union of Public Employees (CUPE) <http://www.cupe.on.ca>
- Ontario Federation of Labour (OFL) <http://www.ofl.ca>
- Ontario Nurses' Association (ONA) <http://www.ona.org>
- Ontario Public Service Employees Union (OPSEU) <http://www.opseu.org>
- SEIU Healthcare <http://www.seiuhealthcare.ca/>
- Unifor <http://www.unifor.org/en>

Members for Employers:

- AdvantAge Ontario <https://www.advantageontario.ca/>
- Ontario Community Support Association (OCSA) <http://www.ocsa.on.ca>
- Ontario Home Care Association (OHCA) <http://www.homecareontario.ca>
- Ontario Hospital Association (OHA) <https://www.oha.com>
- Ontario Health atHome <http://www.ontariohealthathome.ca>
- Ontario Long Term Care Association (OLTCA) <http://www.oltca.com>

Observers:

- Ministry of Children, Community and Social Services (MCCSS)
- Ministry of Health (MOH)
- Ministry of Long-Term Care (MLTC)
- Public Services Health and Safety Association (PSHSA)

Facilitator:

- Ministry of Labour, Immigration, Training and Skills Development (MLTSD)
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Appendix D: General Principles for Investigation of Workplace Violence

The first step in an investigation of a report of workplace violence is to determine the type or scope of violence as this will dictate who will investigate and under what jurisdiction. In general, there are four types of workplace violence, based on the perpetrator's relationship to the workplace.

These are: Criminal Violence, Client Violence, Worker violence and Domestic Violence

Criminal

WHO – this type of violence must be investigated by the police. The health care facility must cooperate with the police investigation. However, direct involvement should be limited.

WHEN – the police must be notified as soon as criminal offense has been detected.

WHAT – cooperate with the police investigation.

The worker members of the JHSC/HSR have the right to investigate critical injuries and fatalities under OHSA section 9 (31). However, in the case of a criminal investigation, the JHSC involvement is likely to be limited at least until the police investigation has been completed. It is a good practice for the JHSC/HSR to investigate all incidents of workplace violence (non critical injuries and near misses).

Client Violence or Reactive Violence

WHO – this type of investigation should, where possible, be carried out by a team composed of the following, manager, security, an occupational health and safety lead from management (e.g., safety professional or OH Nurse) and a worker member of the JHSC. (Police may also be involved)

In the case of critical injuries or fatalities a worker member of the JHSC/ HSR has the right under OHSA section 9 (31) to investigate the event.

WHEN – Start investigation as soon as client violence occurs.

WHAT – Inspect the accident location and obtain information, and when practical, use of photography to document the site and injury, is recommended.

Worker Violence

WHO – this type of violence where possible, should be investigated by a team composed of a Human Resources representative, security and occupational health and safety representative from management, a union representative if applicable and a worker member of the JHSC. (Police may also be involved)

In the case of critical injuries or fatalities a worker member of the JHSC/ HSR has the right under OHSA section 9 (31) to investigate the event.

WHEN – Investigation should begin immediately.

WHAT – Inspect the accident location to obtain information and when practical, use of photography to document the site and injury, is recommended.

Domestic Violence

WHO – This type of violence must be investigated by the police. The health care facility must cooperate with the police investigation. The supervisor or manager of the affected employee should immediately seek assistance from a human resources representative.

The worker members of the JHSC/HSR have the right to investigate critical injuries and fatalities under OHSA section 9 (31). However, in the case of a criminal investigation, the JHSC involvement is likely to be limited at least until the police investigation has been completed. It is a good practice for the JHSC/HSR to investigate all incidents of workplace violence (non critical injuries and near misses).

WHEN – As with other types of violence the investigation should begin immediately.

WHAT – Refer to PSHSA Guidance document

For more information about investigating an incident see PSHSA's document on Incident investigation.