

Questions and Answers from October 8, 2019 live stream event

Risk assessments

Q1: How often should an employer assess the risks of workplace violence?

A1: The employer must reassess the risks of workplace violence as often as is necessary to ensure the policy and related program continue to protect workers from workplace violence. Employers may need to do a reassessment if there have been changes to the:

- *Nature of the workplace* such as a change in the physical environment of the workplace (for example, if the workplace has moved to a new building or your existing workplace was renovated)
- *Type of work* such as a change in the patient, resident or client population (for example, if there are more patients or changes in patient acuity) or changes to the activities that workers perform (for example, there is a new procedure or type of service)
- *Conditions of work* such as a change in work hours for the workers (for example, a day clinic in a hospital that changes to be a clinic open only in the evening)

There are also changes to the circumstances specific to the workplace such as an increase in the number, frequency or severity of violent incidents in the workplace that may lead an employer to reassess the risks of workplace violence.

Q2: Does an employer need to share a copy of the risk assessment with the joint health and safety committee or health and safety representative?

A2: An employer must advise the JHSC or HSR of the results of the assessment and any reassessment(s), and provide them with a copy if the assessment or reassessment(s) are in writing.

Individual Client Risk Assessments

Q3: Who do employers need to do individual client risk assessments on (for example, all patients, clients, residents)?

A3: The *Occupational Health and Safety Act (OHSA)* requires employers 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 risk assessment required by the *OHSA* is generally referred to as an organizational risk assessment. A risk assessment under the *OHSA* is not an assessment of an individual.

It should be noted that the type of work as noted above refers to the activities workers perform, the sector of work (such as health care) and people with whom workers interact (such as clients or patients or residents). The assessment of violence from patients/clients/residents may form part of the workplace violence program measures and procedures.

Public Services Health and Safety Association (PSHSA), Individual Client Risk Assessment toolkit provides information regarding risk assessments. The toolkit addresses individual client assessments and has been developed to help identify behaviours and triggers associated with an increased risk of violence so that prevention measures for workers and the clients can be taken.

As part of the Individual Client Risk Assessment toolkit, the Violence Assessment tool from PSHSA provides a snapshot of a client's immediate risk of violence by identifying behaviours associated with increased risk. With this insight, health care teams can assess the degree of risk of workplace violence, apply control interventions if needed, and improve worker safety while helping to increase the quality of care.

The violence assessment tool is for use in acute care, long-term care and community care. As a best practice, PSHSA recommends that individual client risk assessments be completed at first contact with a client (e.g. triage), and on an ongoing basis depending on client population, acuity levels, work flow, individual client circumstances and the employer's operational policies, procedures and organizational risk assessment findings.

Summoning Immediate Assistance - Personal Safety Response System

Q4: What type of Personal Safety Response System devices does the Ministry of Labour, Training & Skills Development (MLTSD) recommend as appropriate to summon immediate assistance?

A4: The MLTSD does not recommend any particular Personal Safety Response System device. It is up to the workplace to determine which device is appropriate for their workplace setting and risks.

The *Occupational Health and Safety Act* (OHSA) requires that there be measures and procedures included in the workplace violence program for summoning immediate assistance when workplace violence occurs (e.g. patient/client is punching a health care worker) or is likely to occur (e.g. patient/client is displaying behaviours associated with an increased risk of violence such as being agitated, socially inappropriate, disruptive or using threatening language).

Workers must receive appropriate training on any devices that are being used to summon immediate assistance.

Public Services Health and Safety Association, Personal Safety Response System (PSRS) toolkit provides information on PSRSs. The toolkit is designed to help community and health care organizations establish an effective PSRS that can effectively summon immediate assistance for impending workplace violence situations or an incident in progress.

Workplace violence information and instruction

Q5. What information and instruction are employers/supervisors required to provide to workers to protect workers from workplace violence?

A5. Under the *Occupational Health and Safety Act* (OHSA), employers must provide information and instruction to a worker:

- that is appropriate for the worker on the contents of the policy and program with respect to workplace violence [subsection 32.0.5 (2)]
- to protect the health and safety of the worker [clause 25 (2)(a)]

Supervisors are also required under the OHSA to advise a worker of the existence of any potential or actual danger to their health and safety they are aware of (for example, the risk of workplace violence) [clause 27(2)(a)].

To protect workers, the employer must tailor the type and amount of information and instruction to the specific job and the associated risks of workplace violence.

Workers in jobs with a higher risk of violence may require more frequent or intensive instruction or specialized training.

Workers are to be made aware of any hazards in a workplace, including the risks of workplace violence, that they are working in and must know how to follow the measures

and procedures contained in their employer's workplace violence program (e.g. how to summon immediate assistance when workplace violence occurs or is likely to occur, how to report incidents of workplace violence to the employer or supervisor).

The Workplace violence prevention in health care: A guide to the law for hospitals, long-term care homes and home care provides examples of training topics on the prevention of workplace violence.

During the Workplace Violence Prevention in Health Care Leadership Table, a Training Matrix tool for hospitals was developed. The tool is intended to assist employers in ensuring that workers are trained to prevent and react to incidents of workplace violence. The tool includes internal policies and procedures and roles and responsibilities based on the worker's occupation and potential exposure to risk.

In 2019, the hospital training matrix tool was adapted by the MLTSD, MOH and MLTC Advisory Committee on Workplace Violence to make it applicable for long-term care homes to address the needs of the sector. It can be found here: Training Matrix for long-term care homes.

Providing personal information related to a risk of workplace violence from a person with a history of violent behaviour

Q6: What personal information is the employer and supervisor required to share with a worker regarding a person with a history of violent behaviour in order to protect workers from the risk of workplace violence and what are effective methods of communicating this information?

A6: Employers and supervisors must provide 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 that person during his or her work and if the risk of workplace violence is likely to expose the worker to physical injury.

There are limitations on the disclosure of personal information. An employer or supervisor cannot disclose more personal information in the circumstances described above than is reasonably necessary to protect the worker from physical injury. For example, the information disclosed should allow workers to identify the person with the violent history and, if appropriate, the triggers of his/her potential aggression.

Workers outside the circle of care may not need to know specific information related to a diagnosis but may need some information communicated to them to understand the risk of workplace violence associated with the person and what to do as part of the workplace violence program. In most situations, it should be possible to provide workers

with enough information to protect them without disclosing personal medical information.

The employer will have to take into account a person's right to privacy under legislation such as the Personal Health Information Protection Act, 2004, in addition to a worker's right to be informed of workplace violence risks under the *Occupational Health and Safety Act*.

The way in which an employer communicates information on a person with a history of violence will vary depending on the workplace. However, it is recommended that there be some sort of flagging mechanism that is appropriate to the workplace circumstances. For example, some workplaces communicate information verbally during staff huddles or shift change overs, or there may be a communication between departments for managers to alert other staff who may come in contact with a person (e.g. patient/client, family member) with a history of violence.

Additionally, subject to privacy legislation, health care employers should consider having some sort of tracking system in place that is able to store and retrieve information on patients/clients with a history of violence. A tracking system ensures that if a patient/client or family member who was discharged from a workplace returns to the workplace the employer is aware of their history.

To learn more about the communication of workplace violence risks and related privacy concerns, refer to Public Services Health and Safety Association's [Communicating the Risk of Violence: A Flagging Program Handbook for Maximizing Preventative Care](#).

Resources for joint health and safety committee (JHSC) worker members on conducting workplace inspections specific to critical injuries and fatalities

Q7: Are there resources for JHSC worker members on how to conduct a workplace inspection when there has been a workplace critical injury or fatality?

A7. Members of the JHSC committee who represent workers must designate one or more worker members of the JHSC to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those worker members may, subject to subsection 51(2) of the OHSA, inspect the place where the fatality or critical injury occurred and any machine, device or thing, and shall report his or her findings to a Director and to the JHSC [OHSA subsection 9(31)].

The worker representative may choose to do their own inspection of the place where the critical injury/fatality occurred and are not obligated to participate in an employer investigation. The MLTSD has developed a [Guide for health and safety committees and representatives](#) that addresses JHSC responsibilities under the OHSA. The Public

Services Health and Safety Association also has additional information available on their website on JHSC responsibilities.

Role of the Joint Health and Safety Committee (JHSC) during workplace inspections

Q8. Can the Joint Health and Safety Committee (JHSC) identify workplace violence hazards during their inspection?

A8. The JHSC or Health and Safety Representative (HSR) is responsible for identifying situations that may be a source of danger or hazard to workers. One way the JHSC or HSR identifies workplace hazards are through workplace inspections (e.g. the JHSC can inspect for workplace violence hazards as part of their workplace inspection).

The JHSC or HSR is also responsible for making recommendations to the employer for the improvement of the health and safety of workers. The employer must respond to written recommendations of the JHSC, JHSC co-chair and HSR within 21 days.

Work refusals in health care

Q9. When can health care workers refuse work due to workplace violence?

A9. Under the *Occupational Health and Safety Act* (OHSA), workers have the right to refuse work or refuse to do particular work where the worker has reason to believe that workplace violence is likely to endanger himself or herself.

The right to refuse work for certain workers, such as some health care workers is limited (Subsection 43(1) of the OHSA). Certain health care workers cannot refuse work when:

- a circumstance is inherent in their work or is a normal condition of their employment; or
- when the worker's refusal to work would directly endanger the life, health or safety of another person.

A worker does not need to be in actual or imminent danger before they can initiate a work refusal. A worker could refuse to work if a threat is (or can be reasonably interpreted to be) a threat to exercise force that could cause physical injury to the worker. The worker must have reason to believe that workplace violence is likely to endanger himself or herself if they continue to work.

Where a worker receives a threat that does not cause him/her to fear for his/her personal safety, the worker should use the measures and procedures in the workplace violence or harassment program to report the incident to his or her employer.

The Workplace violence prevention in health care: A guide to the law for hospitals, long-term care homes and home care outlines the health care workers that have a limited right to refuse as per OHSA subsection 43(2).

The employer and supervisor still have a duty to take every precaution reasonable in the circumstances to protect the health and safety of all workers. In workplaces where there are workers that have a limited right to refuse, each situation must be considered based on the particular facts and circumstances.

For more information on the process for work refusals under the OHSA, refer to the:

- OHSA section 43
- Ministry of Labour Guide to the Occupational Health and Safety Act, Part V – Right to Refuse Work
- Ontario Health Care Health and Safety Committee Under Section 21 of the Occupational Health and Safety Act: Guidance Note for Workplace Parties #7 Right to Refuse Unsafe Work
- College of Nurses of Ontario Practice Guideline: [Conflict Prevention and Management](#)