

July 28, 2017

Review of the Workplace Safety and Health Act  
c/o Chair, The Advisory Council on Workplace Safety and Health  
Workplace Safety and Health  
200-401 York Avenue  
Winnipeg, MB  
R3C 0P8

**RE: Submission to the Five Year Review of the Workplace Safety and Health Act**

On behalf of the Provincial Workplace Safety and Health Working Group (PWSHWG), please consider this our collective submission, representative of the following employers:

- CancerCare Manitoba (CCMB)
- Diagnostic Services Manitoba (DSM)
- Interlake Eastern Regional Health Authority
- Northern Regional Health Authority
- Prairie Mountain Health
- Southern Health/Santé Sud
- Winnipeg Regional Health Authority

This submission will focus on the goals outlined in the announcement of

- ensuring existing requirements are adequate, clear and reasonable;
- reducing red tape and barriers to economic growth while ensuring necessary protections for the safety and health of workers; and
- identifying opportunities to improve harmonization of legislation with other jurisdictions.

**Section 15: Minister's Advisory Council on Workplace Safety and Health**

*ADVISORY COUNCIL*

*Advisory council*

*15(1) The Lieutenant Governor in Council may in accordance with subsection (2) appoint a council to be known as "The Advisory Council on Workplace Safety and Health", which shall consist of a chairperson and not less than six or more than 12 members.*

*Composition of advisory council*

*15(2) Of the members appointed under subsection (1), (a) 1/3 shall be appointed after consultations by the minister with organizations representing workers;*

*(b) 1/3 shall be appointed after consultations by the minister with organizations representing employers; and*

*(c) 1/3 shall be appointed after consultations by the minister with technical and professional bodies whose members are concerned with the general purposes of this Act.*

As per legislation, the Advisory Council on Workplace Safety and Health consists of members appointed by the Lieutenant Governor in Council with equal representation from workers, employers, and technical/professional organizations who provide input on general workplace safety and health issues, the protection of workers in specific situations, the appointment of consultants and advisors, and any other matter concerning workplace safety and health on which the Minister seeks the Council's opinion. The council also plays a key role in the development and revision of the workplace safety and health act.

Current employer representation includes agriculture, mining, manufacturing and construction. Labour representation includes three of four representatives whose members are employed within the healthcare industry.

The healthcare industry is one of the largest employers in the province, employing approximately 56,000 staff.

In order to assess the impact of the requirements of the Workplace Safety and Health Act and Regulations and any proposed changes on the healthcare industry it is important to possess a clear understanding of the clinical processes and support services offered in addition to the intricacies of governance include policies, procedures, collective agreements and service purchase agreements.

**Recommendation:**

That council be expanded to include an employer representative of the healthcare industry.

**Section 37: Appeals**

37(2) requires an appeal in writing within 14 days of the date of the order or decision.

37(5) states that the Director must provide a written decision within a reasonable time.

37(6) states that the appeal does not suspend the operation of the order or decision under appeal.

**Recommendation:**

Amend to include an opportunity to discuss the requirement to comply during the appeal process with the Director within 48 hours of the appeal being received.

**Section 43: Right to Refuse Dangerous Work**

*43(1) Subject to this section, a worker may refuse to work or do particular work at a workplace if he or she believes on reasonable grounds that the work constitutes a danger to his or her safety or health or to the safety or health of another worker or another person.*

The WSHA states that a worker may refuse to work or do particular work at a workplace if he or she believes on reasonable grounds that the work constitutes a danger to his or her safety or to the safety or health of another worker or another person.

**Recommendation:**

The PWSHWG supports the Right to Refuse Dangerous Work for all staff and suggests that further definition is required in the WSHA similar to that in Bulletin #193 as follows: “work involving safety and health risks that are not normal for the job

**Section 44: Education Leave**

*44(1) Subject to this section, every employer at a workplace where there is a committee or a representative, must allow each member of the committee, the representative, or their respective designates, to take educational leave each year, without loss of pay or benefits, for the purpose of attending workplace safety and health training seminars, programs or courses of instruction*

The statement in the WSHA has, in some cases, been interpreted as excluding on-line training, webinars, etc.

**Recommendation:**

Amend to include electronic options such as on-line training seminars, programs, or courses of instruction.

**The Workplace Safety and Health Regulation**

Many of the requirements of the Workplace Safety and Health Regulation appear to be written with a small to mid- size workplace in mind. In contrast, there are sections specific to healthcare. There are a number of sections of regulation that the healthcare industry applies /will apply for exemptions. Exemptions to regulations may be granted but must be re-applied for every three years.

**Recommendation:**

It is recommended that similar to Regulation 228/94 Operation of Mines Regulation, a regulation specific to healthcare/medical workplaces be created. For application purposes, the regulation would include a statement similar to that of the Mines Regulation:

*1.2(2) For certainty, the Workplace Safety and Health Regulation, Manitoba Regulation 217/2006, also applies to a mine, but if there is a conflict between a provision of this regulation and a provision of The Workplace Safety and Health Regulation, the provision of this regulation prevails*

As well as a statement that certain sections do not apply, similar to

*2.15 Sections 2.6 to 2.8 of the Workplace Safety and Health Regulation, Manitoba Regulation 217/2006, do not apply to a mine.*

To be included/defined in separate regulation:

Workplace Safety and Health Act

- WSHA Act Section 40 - Workplace Safety and Health Committees and Representatives - Many of the sites and facilities where healthcare is provided employ provincial, regional and site employees. Although separate employers, these groups of employees work side by side in the same facility/department/site, and follow the same regional policies and clinical guidelines. Health and

safety concerns are handled in the same manner and through the same channels of communication. Rather than three separate committees, one joint committee should be required.

- Contractor Safety – Bulletin 244 Temporary/Agency Workers in Healthcare – Employer Responsibilities currently addresses this information
- WSHA Act Section 45 – Needles in Medical Workplaces

#### Workplace Safety and Health Regulation

- Interpretation: “harassment” 1.1.1 specifics that would consider the difference between objectionable comments made by those suffering from brain injuries or illnesses.
- Part 2 – 2.2 Consultations required (safe work procedures). Due to the complexity of certain tasks it is recommended that in addition to the current requirement for consultation with the committee in developing and implementing safe work procedures, a statement similar to that in the Mines Regulation be added. *1.5 If under a provision of this regulation, an employer is required to develop and implement safe work procedures, the employer must consult with the committee and a worker competent in the subject matter of the safe work procedures.*
- Part 2 – 2.8 Site of serious incident to be preserved. Areas where patient care is delivered may require alteration or movement of items where a serious incident has occurred prior to the 24 hours stated.
- Part 3 – Committee for Multiple Workplaces 3.1.1(7) exemption is valid for period specified which must not be more than three years. Remove 3 year cap if there are no changes in the workplace.
- Part 3 – Committee inspection of workplace 3.2.2 requires an inspection of the workplace, work processes and procedures at least once before each regularly scheduled meeting of the committee (who must meet at least quarterly). Due to the size and complexity of workplaces within the healthcare industry, the requirement of inspections of the entire workplace by worker and employer representatives of a committee with a maximum of twelve members on a quarterly basis is not feasible. In addition, analysis of injury statistics shows that the majority of incidents are patient related (patient handling or aggression/reactive behaviour) which would not be identified through the inspection process. A combination of staff, manager, and committee inspections must be considered.
- Part 4 – General Workplace Requirements – As the healthcare industry also provides care in client’s homes, these homes are considered workplaces. There are a number of sections in this part that the employer does not control, nor direct the client to comply with. One such example is 4.14 emergency lighting
- Part 5 – First Aid – The requirement of additional first aid training in facilities which are staffed by trained healthcare professionals and provide emergency/urgent /primary care or provide Code Blue services should be adapted to consider the requirements related to first aid in these situations. The purpose of the first aider is to provide immediate care required prior to receiving medical care which is available immediately in these sites. This also applies to the requirement for a first aid room in workplaces with more 100 workers per shift.
- Part 9 – Workers Working Alone – section specific to healthcare and client’s homes
- Part 10 – Harassment - interpretation mentioned above related to brain injuries and illnesses
- Part 11 – Violence – specific section
- Part 39 – move to new regulation
  - Safe work procedures for infectious materials
  - Safe work procedures for waste and laundry
  - Safe work procedures for patient handling

- Safe work procedures for lasers
- Employer to inform worker and arrange vaccine
- Sharps containers
- Sorting areas to be separate
- Moving patients
- Laser Equipment Standards
- Definition of Waste

Thank you for your consideration.

Sincerely,



Teri Kindrat

Director - Provincial Health Labour Relations Services

Co-Chair, Provincial Human Resources Leadership Council

cc. Provincial Human Resources Leadership Council  
Provincial Workplace Safety and Health Working Group