Towards Zero Tolerance for Workplace Violence Against Health Care Professionals

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INTRODUCTION AND AGENDA

1. Background
2. Common Law and Statutory Obligations
3. Employer Responsibilities
4. Developing a Workplace Violence Policy and Program
5. Questions
Background

- Workplace violence in the health care sector costs the health care system about $23.8 million annually for hospitals alone
- 10% of lost-time injuries in hospitals
- 54% of ONA members report having experienced physical violence in the workplace
Background - Recent Themes

- Increased awareness of workplace harassment and violence
- Harassment and violence on continuum
- Adverse consequences for employees
- Significant employer exposure to liability for workplace harassment and violence
Background - Contributors to Workplace Violence

- Staffing and supervision
- Greater acuity
- Lack of activity/long wait times
- Security measures
- Close physical contact
- Lack of privacy
- Home visits and associated isolation
2. Common Law and Legislation

- Common law duty to protect staff and others from harm
- Implied term of employment contract to protect from harassment and violence in workplace
- Obligation to protect from harassment and take reasonable steps to protect against workplace violence
Legislation and Regulations

*Ontario Human Rights Code*

*Occupational Health and Safety Act (OHSA)*

1. 2010 Amendments – Bill 168

OHSA Reg. 67/93: Health Care and Residential Facilities

*Public Hospitals Act* and Regulation 965: Hospital Management
Workplace Violence – OHSA Definition

- Exercise of physical force by a person against the worker, in a workplace, that could cause physical injury to the worker
- Attempt to exercise physical force against a worker
- Statement or behaviour that is reasonable for a worker to interpret as a threat to exercise against a worker
Examples of Workplace Violence

- Verbal threats of violence
- Threatening notes or emails sent to a workplace
- Wielding a weapon at work
  - contaminated syringe, scalpel, scissors, knife, etc.
- Hitting or attempting to hit a worker
- Sexual violence against a worker
Duties of Employers

• Employers must:
  – Prepare and review, at least annually, a policy on workplace violence
  – Develop and maintain a workplace violence program to implement policies
  – Assess risks of workplace violence that may arise from nature of workplace, type of work or conditions of work
  – Provide information to employees
Duties of Employers (OHSA)

• Workplace Violence Program
  – To control identified risks of workplace violence
  – For summoning immediate assistance when workplace violence occurs or is likely to occur
  – For workers to report incidents of workplace violence
  – Set out how employer will investigate and deal with incidents or complaints of workplace violence
Duties of Employers (OHSA)

• Workplace Violence Assessment
  – An employer must assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work
  – Advise the JHSC or representative or workers of the results of the assessment
  – Reassess the risks as often as is necessary
Duties of Employers (OHSA)

• Domestic Violence
  – If an employer becomes aware, or ought to be aware that domestic violence may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker
Duties of Employers (OHSA)

- **Work Refusals**
  - Right to refuse unsafe work extends to situations where workplace violence is likely to endanger the worker
  - No right to refuse due to workplace harassment
- **Reporting Obligations**
  - Employer reporting obligations for Critical Injury and Non-Critical Injury / Lost Time Reports now include occurrences due to workplace violence
Developing a Workplace Violence Policy & Program

1. Recognize
2. Assess
3. Control
4. Monitor and Evaluate
1. Recognize

- Collect workplace information
- Collect information about similar workplaces
- Collect community information
2. Assess

- Review information from workplace, community, and similar workplaces
- Review existing policies, programs and training
- Complete workplace violence assessments
Workplace Violence Risk Assessment

- Review workplace violence risks specific to your workplace, sector and physical location
- Determine employee perception of workplace violence and harassment
- Assess environmental factors
  - Parking lots, lighting, signage, facility access, security measures
Workplace Violence Risk Assessment

- Review risks related to work setting, clients, work practices
  - Working alone or at night
  - Working in the community
  - Working with high-risk patients and the public
  - Emergency response procedures
  - Point-of-care work practices
  - Employee education
Workplace Reassessments – When Necessary

- As often as necessary to ensure workers continue to be protected
- An actual incident of workplace violence
- A risk of workplace violence
Reassessment - Examples

- Diminished staffing levels for stable patient/client/resident population
- Change to the physical environment
- Change to patient/resident/client population
- Assaults on workers, where none previously
3. Control
Workplace Violence Policy

- Commitment to protecting workers from workplace violence
- Create culture of safety
- Address violence from all possible sources
- Outline roles and responsibilities of workplace parties in supporting policy and program
- Must be endorsed by highest level of management
3. Control
Workplace Violence Program

• Measures and procedures to:
  – Control identified risks
  – Summon immediate assistance
  – Report incidents of workplace violence
  – Investigate and deal with incidents or complaints of workplace violence
  – Any other elements prescribed by regulation
Responsibility of Management

- Enforce policy and monitor staff compliance
- Assist in management of incidents
- Investigate all incidents of workplace violence or abuse
- Contact police, internal or external resources as necessary
- Ensure supports are offered to the individual
Responsibility of Staff

- Understand and comply with policies
- Promptly report all incidents and complete required reports
- Participate in education and training programs
- Seek appropriate support as required
- May be professional responsibilities
Preventative Measures

- Behavioural management and supports training
- Flagging systems
- Self-defence training
- De-escalation training
- Workplace design
Summoning Immediate Assistance

- Escalation to Management
- Code White
- Personal or other alarms
- Emergency numbers readily available
- Protocols for contacting the police
- Sign-in/sign-out procedures
Ongoing Safety Risk – Safety Plan

- Limiting or restricting individual (i.e. trespass or peace bond)
- Increasing vigilance and monitoring
- Reviewing staff assignment, partnering, security presence
- Personal security measures (i.e. staff escort, personal security alarms)
- Police consultation
- Communicating threats and safety plans (Code Black)
Support for Staff Affected by Workplace Violence

- Following interventions, as required:
  - Medical Attention
  - Debriefing
  - Referrals to community agencies, treating practitioners
  - Reporting incident to police (if advisable)
  - Team Debriefing
  - Development of Safety / Resource plan
History of Violent Behaviour

• Duty to provide workers with information related to a risk of workplace violence
  – Includes personal information

• Limited duty – must not disclose more information than is reasonably necessary to protect workers from physical injury
Domestic Violence

- Precautions to protect workers when they are aware, or ought reasonably to be aware, that domestic violence may occur in the workplace
  - Specific measures for protection of worker
  - Safety plan
  - Modification of work duties and/or flexible accommodations to schedule
  - Security precautions
  - Employee Assistance Programs
Work Refusals

- Limited right to refuse in specified circumstances
  - Inherent in worker’s work
  - Normal condition of employment
  - Refusal would endanger life, health or safety of another person
Communication, Instruction, Education and Training

• Workers should know how:
  – To summon immediate assistance
  – To report incidents if workplace violence
  – The employer will investigate and deal with incidents, threats, or complaints
  – To carry out the measures and procedures in place to protect them from workplace violence
4. Monitor and Evaluate

- Involve workers, joint health and safety committee, health and safety representatives and unions
- Monitor incidents
- Review effectiveness of training
- Monitor policy as often as necessary, and at least annually
Investigation

- Determine type or scope of violence
  - Criminal violence
  - Client violence
  - Worker violence
  - Domestic violence
- Notify appropriate parties
- Begin investigation immediately
Summary

- Workplace violence is an increasing issue in healthcare
- Employers may be held liable if workers are not adequately protected from workplace violence
- Employers have duties under the OHSA to ensure workers are protected from workplace violence
- Due diligence defence
Questions?

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