



Simran Prihar
Direct Line: 416.979.4050
Fax: 416.591.7333
sprihar@goldblattpartners.com
Our File No. 21-106

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Via E-mail (WebHSpolicy@ontario.ca)

OHSA Incident Reporting Project
Health, Safety and Insurance Policy Branch
Ministry of Labour, Training and Skills
Development
400 University Avenue, 14th Floor
Toronto ON M7A 1T7

Dear Sirs/Mesdames:

Re: Modernizing Regulatory Requirements prescribed for Part VII – Notices under the Occupational Health and Safety Act

We represent the Ontario Council of Hospital Unions/Canadian Union of Public Employees. OCHU/CUPE represents over 40,000 members working in hospitals and long-term care facilities in Ontario.

We welcome this opportunity to provide feedback on proposed amendments to the existing reporting requirements for employers under sections 51 and 52 of the *Occupational Health and Safety Act* (hereafter referred to as “OHSA”). These changes would affect the written reporting requirements outlined in sections 5 and 6 of *O. Reg. 67/93 – Health Care and Residential Facilities*, which directly impact OCHU/CUPE members. The Ministry is proposing to streamline the current reporting provisions in eight different OHSA regulations into one single regulation which would apply to all workplaces that are covered under the OHSA. We have not yet seen a draft version of the regulation, but the consultation notice posted on December 18, 2020 outlines that the proposed regulation would set out what information must be reported by all employers covered by the OHSA when giving a notice under ss. 51 or 52. Our comments below are limited to that consultation notice, and we look forward to providing feedback on the proposed regulation when it is drafted.

Having reviewed the proposal, we would start by noting that we welcome the modernization and streamlining of certain provisions. For example, we agree that it is important to recognize that injured workers can be treated by medical practitioners other than physicians or surgeons.

However, we are very concerned by the removal of certain requirements which exist in section 5(5) of *O. Reg. 67/93*. These provisions specifically address an employer's obligations when giving written notice under section 52(2) of the OHS Act if the employer is advised that a worker has an occupational illness or that a claim in respect of an occupational illness has been filed with the Workplace Safety and Insurance Board.

The following subsections have been removed upon our read of the new proposal for a streamlined single regulation:

5 (5) ...

(c) a description of the cause or the suspected cause of the occupational illness;

(d) the period when the worker was affected;

...

(g) the steps taken to prevent further illness.

As you are aware, s. 52(2) of the OHS Act requires notice to be given not only to the Ministry, but also to the Joint Health and Safety Committee or a health and safety representative and to the trade union, if any. These notices are imperative for committees and unions to be able to appropriately support injured and ill workers. When it comes to an occupational illness, the above three provisions are extremely important and also quite different from the information reported as a result of a critical injury or death which is captured in the new proposal.

The description of the cause or suspected cause of the occupational illness under s. 5(5)(c) provides a crucial starting point to worker health and safety representatives to advocate for change to any areas of the job or workplace which may have contributed to the illness. In our view this is important information for the Ministry to have as well, from at minimum a tracking and monitoring point of view.

Although we can imagine those who drafted the proposal may have felt that s. 5(5)(d) was covered by the general language which requires the time and date of the occurrence, the "period when the worker was affected" is very different from that general reporting requirement. Often, in the case of an occupational illness, a worker can be affected over a longer period of time than is the case with a death or critical injury which is generally a result of an event at one single date and time.

Lastly, we cannot fathom why the Ministry would not be interested in the steps taken to prevent further illness as currently required under s. 5(5)(g). Steps taken to prevent a "recurrence" are required in the new proposed language, and so should steps taken to prevent further illness be. I can assure you that unions and worker health and safety representatives will be extremely concerned if the employer is suddenly no longer to be required to take such steps and report on

them to the Ministry, the committee and the trade union. That kind of loss of accountability would be catastrophic for workers in this province.

We also note that the removal of these provisions seems ill-timed, as we are currently in a global pandemic, where unprecedented numbers of workers are contracting and dying from COVID-19. Now more than ever, it is imperative that employers and the Ministry know the causes or potential causes of occupational illness, the period of time in which the worker was affected, and any steps taken to prevent further illness in workers from this devastating disease. We are sure that you would agree with us that even one more worker death due to contracting COVID-19 at the workplace is one too many, and a large part of avoiding that is to ensure our tracking and reporting mechanisms are strong and robust. Removal of any requirement in this regard is completely unacceptable and highly irresponsible.

We are hopeful that these omissions were inadvertent and strongly encourage you to reinstate the above sub-sections into the new proposed regulation. We also look forward to reviewing the proposed regulation once it has been formally drafted.

Sincerely,



Simran Prihar

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c.c. Michael Hurley, President, OCHU/CUPE
Vicki McKenna, President, ONA
Smokey Thomas, President, OPSEU
Katha Fortier, Assistant to the National President, Unifor
Sharleen Stewart, President, SEIU Healthcare

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