

WORKPLACE VIOLENCE IS ON THE RISE AT AN ALARMING RATE IN BC

Sadly, most workers and employers accept that workplace violence is simply an unavoidable part of their job.

British Columbia needs to recognize the seriousness of this crisis and take immediate action to prevent all forms of workplace violence.

WHAT DO THE NUMBERS TELL US?

Despite attempts by the Government of BC and Workers' Compensation Board of BC (WCB) to address workplace violence, including domestic violence, and workplace bullying and harassment, the problem continues to grow.

As reported by the WCB, there has been a 67% increase in time-loss claims from 2005 to 2015 - from 1,226 to 2,068 - related to acts of violence. The nature and consequences of these acts of violence has also intensified, as suggested by the fact that claim costs have more than doubled over the same time period, from \$18.5 million to more than \$40 million. 60% of these claims occurred in the healthcare and social services sector, followed by education, transportation, retail, hospitality and other public services.

Since the WCB began keeping records of bullying and harassment related claims in 2013, there has been an average of 43 time-loss claims per year. Claim costs increased by 400% from just over \$590,000 in 2013 to more than \$2.3 million in 2015. The total time-loss claims accepted for all forms of workplace violence in 2015 was 2,106 - averaging nearly 6 new claims per day and total claims costs of nearly \$44.5 million.

The statistics only tell part of the story of workplace violence in BC. These numbers merely reflect incidents that were both reported and accepted for compensation benefits under the WCB's limited criteria - many more incidents remain unreported and unresolved, leaving the worker untreated and uncompensated. And of course, the true consequence to workers and their families can never be quantified by a claim count or a dollar amount.



WHAT IS WORKPLACE VIOLENCE?

Workplace violence is often thought of as a physical assault – but this is just the tip of the iceberg. Workplace violence can be described as a continuum of behaviours that can lead to physical assault, homicide and suicide.

The BC Federation of Labour has adopted this broader definition of workplace violence which includes domestic violence, as well as aggressive behaviour such as bullying and harassment, psychological violence, threatening behaviour, verbal or written threats, domestic violence and sexual harassment. The fact that bullying and harassment is a form of workplace violence is well supported by the literature and by various organizations around the world.

LAW & POLICY: THE HISTORY OF WORKPLACE VIOLENCE IN BC

British Columbia was once on the leading edge of regulatory requirements for the prevention of workplace violence, incorporating requirements formerly known as Protection of Workers from Violence in the Workplace, into Part 4 of the Occupational Health and Safety Regulations (OHSR) in 1993.

In 2003, a Coroner's Inquest was held to examine the tragic double murder-suicide incident in 2002 at the Ministry of Water, Land and Air Protection office in Kamloops, involving Richard Anderson. The Coroner's Jury made 8 recommendations, including:

- Amend the *Workers Compensation Act (Act)* to broaden the definition of violence;
- Amend the *Act* to make it mandatory to report threats of violence to the employer, and to the Board when necessary; and
- Make workplace violence training programs for workers mandatory.

Despite the WCB proposing comprehensive amendments to the OHSR to address the Jury's recommendations, in 2005 the WCB Board of Directors decided not to adopt the amendments due to negative feedback from stakeholders. Instead, they approved increased education and training for WCB officers, employers and workers with respect to workplace violence.

On November 3, 2011, *Bill 14, Workers Compensation Amendment Act, 2011*, was introduced at the BC Legislative Assembly by the Honourable Margaret MacDiarmid, receiving Royal Assent on May 31, 2012. Bill 14 proposed amendments which included changing requirements for Section 5.1 of the *Act* respecting compensation for mental disorders, and adding the words "bullying and harassment" in Section 5.1 of the *Act*.

According to the Hansard report of the debates on the morning of May 3, 2012, Minister MacDiarmid made her expectations very clear that the Board would accompany Bill 14 with new regulatory provisions that would:

- ensure the *regulations* were "strong, clear, and specific" about bullying and harassment;
- expand the definition of violence in the *regulations* to include bullying and harassment; and
- require employers to have formal prevention plans.

A WINDOW OF OPPORTUNITY SQUANDERED

The government's directive to amend the regulations related to workplace violence provided the Board with the perfect opportunity to revive and modify the proposed amendments shelved in 2005, as these specifically addressed the minister's intentions.

Instead, the Board created three new prevention policies respecting bullying and harassment under the General Duties of Employers, Workers and Supervisors in the *Act*. The policies do not comply with the criteria outlined by the minister above. Rather, the Board essentially created a disjointed, nonsensical and ineffective approach to address workplace bullying and harassment – disconnecting bullying and harassment completely from the workplace violence regulation.

BC HAS LOST ITS LEADING EDGE

BC's legislative framework for workplace violence, domestic violence, bullying and harassment has not kept pace with other jurisdictions in Canada.

The Canada Labour Code requires employers to prevent workplace violence under the employer's general duties, and the Canada Occupational Health and Safety Regulations (COHSR) provide more prescriptive requirements for employers with respect to their prevention of violence programs.

In 2004, Quebec incorporated provisions regarding "psychological harassment" into their legislation, which requires the employer to prevent psychological harassment and to put it a stop to it when they become aware of it. The legislation also empowers the Commission de la santé et de la sécurité du travail (CSST) to order the employer to do so, or pay damages, etc.

In 2007, Saskatchewan introduced legislation adding the prevention of workplace harassment to the definition of "occupational health and safety," and to the general duties of employers, in Part III of the Saskatchewan Employment Act

In 2010, workplace violence and harassment requirements came into effect under Ontario's Occupational Health and Safety Act. In 2016, amendments were passed to broaden the requirements for employers to ensure the safety of employees. Ontario also has provisions for domestic violence in Section 32.0.4 of the Act.

LEGISLATIVE IMPROVEMENTS TO PREVENT WORKPLACE VIOLENCE

With violent workplace incidents increasing each year, the time to act is now. The path forward is clear. All the necessary studies, research and analyses have been done. Other jurisdictions in Canada have leaped ahead of British Columbia to introduce the necessary improvements to their respective legislation. It is time for BC to introduce and implement world-class standards for preventing workplace.

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RECOMMENDATIONS

What is government's role?

Government has the authority to ensure that BC has “strong, clear and specific” legislation respecting workplace violence, domestic violence, bullying and harassment. Government must set a strong example, as follows:

1. Amend Section 115, General duties of employers, of the *Workers Compensation Act (Act)* to add the legislative requirement to prevent workplace violence.
2. Amend Section 106, Definitions, of the *Act* to add “workplace violence” with a definition that includes the full continuum of behaviours, including domestic violence, bullying and harassment.
3. Amend Sections 172(1) of the *Act* to include the requirement to report incidents of workplace violence to the Board.
4. Amend Sections 172(1)(a) and 173(1)(b) and (c) of the *Act* to include “illnesses” as in the criteria for notice of accidents to the Board and incidents that must be investigated.
5. Demand that the Workers’ Compensation Board develop, and consult on, comprehensive amendments to the workplace violence regulations, including but not limited to the amendments noted below.

What is the role of the Workers’ Compensation Board?

The BCFED is developing draft regulatory amendments to present to the Board that will significantly strengthen the workplace violence regulations, by (in part):

1. Including provisions to address the Jury recommendations arising from the 2003 Coroner’s Inquest into Richard Anderson’s death;
2. Expanding the definition of workplace violence to include domestic violence, bullying and harassment;
3. Combining all regulations pertaining to workplace violence under one regulation.
4. Expanding the existing violence regulations to provide clear and specific requirements for stakeholders to adhere to; and
5. Expanding the regulation to require full participation of worker representatives in all aspects of the workplace violence prevention program, including investigations.



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The British Columbia Federation of Labour represents over 500,000 members working in every corner of the province, and in every sector of the economy.

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