

Health Care Professionals & the *WSIA*



Workplace Safety &
Insurance Board

Commission de la sécurité
professionnelle et de l'assurance
contre les accidents du travail

This brochure details the sections of the *Workplace Safety and Insurance Act* that are relevant to health care professionals. We want to help health care professionals better understand and deal with our workplace safety and insurance system and hope to create more effective working relationships that assist you in managing the best possible outcomes for your patients after a workplace injury or illness.

Part 1 – Interpretation

Purpose

1. The purpose of this *Act* is to accomplish the following in a financially responsible and accountable manner:
 1. To promote health and safety in workplaces and to prevent and reduce the occurrence of workplace injuries and occupational diseases.
 2. To facilitate the return to work and recovery of workers who sustain personal injury arising out of and in the course of employment or who suffer from an occupational disease.
 3. To facilitate the re-entry into the labour market of workers and spouses and same-sex partners of deceased workers.
 4. To provide compensation and other benefits to workers and to the survivors of deceased workers.

Definitions

2. (1) In this *Act*,
"accident" includes,
 (a) a wilful and intentional act,
 not being the act of the worker,
 (b) a chance event occasioned by a
 physical or natural cause, and
 (c) disablement arising out of and in
 the course of employment;
("accident")

"health care practitioner" means a health professional, a drugless practitioner regulated under the *Drugless Practitioners Act* or a social worker;

"health professional" means a member of the College of a health profession as defined in the *Regulated Health Professions Act, 1991*;

PART III – Insurance Plan

Notice of Accident and Claim for Benefits

21. (1) An employer shall notify the Board within three days after learning of an accident to a worker employed by him, her or it if the accident necessitates health care or results in the worker not being able to earn full wages.

Claim for benefits, worker

22. (1) A worker shall file a claim as soon as possible after the accident that gives rise to the claim, but in no case shall he or she file a claim more than six months after the accident or, in the case of an occupational disease, after the worker learns that he or she suffers from the disease.

22. (5) When filing a claim, a worker must consent to the disclosure to his or her employer of information provided by a health professional under subsection 37 (3) concerning the worker's functional abilities. The disclosure is for the sole purpose of facilitating the worker's return to work.

PART IV - Health Care

Definition

32. In this Part,
"health care" means,
- (a) professional services provided by a health care practitioner,
 - (b) services provided by or at hospitals and health facilities,
 - (c) drugs,
 - (d) the services of an attendant,
 - (e) modifications to a person's home and vehicle and other measures to facilitate independent living as in the Board's opinion are appropriate,
 - (f) assistive devices and prostheses,
 - (g) extraordinary transportation costs to obtain health care,
 - (h) such measures to improve the quality of life of severely impaired workers as, in the Board's opinion, are appropriate.

Entitlement to health care

33. (1) A worker who sustains an injury is entitled to such health care as may be necessary, appropriate and sufficient as a result of the injury and is entitled to make the initial choice of health professional for the purposes of this section.

Arrangements for health care

33. (2) The Board may arrange for the worker's health care or may approve arrangements for his or her health care. The Board shall pay for the worker's health care.

Fee Schedules

33. (3) The Board may establish such fee schedules for health care as it considers appropriate.

Penalty for late billing

33. (4) If the Board does not receive a bill for health care within such time as the Board may specify, the Board may reduce the amount payable for the health care by such percentage as the Board considers an appropriate penalty.

Prohibition

33. (5) No health care practitioner shall request a worker to pay for health care or any related service provided under the insurance plan.

No right of action

33. (6) No action lies against the Board to obtain payment of an amount greater than is established in the applicable fee schedule for health care provided to a worker. No action lies against a person other than the Board for payment for health care provided to a worker.

Questions re health care

33. (7) The Board shall determine all questions concerning,
(a) the necessity, appropriateness and sufficiency of health care provided to a worker or that may be provided to a worker;
and

- (b) payment for health care provided to a worker. 1997, c. 16, Sched. A, s. 33.

Worker's Duty to co-operate

- 34. (1) A worker who claims or is receiving benefits under the insurance plan shall co-operate in such health care measures as the Board considers appropriate.

Board request for health examination

- 35. (1) Upon the request of the Board, a worker who claims or is receiving benefits under the insurance plan shall submit to a health examination by a health professional selected and paid for by the Board.

Employer request for health examination

- 36. (1) Upon the request of his or her employer, a worker who claims or is receiving benefits under the insurance plan shall submit to a health examination by a health professional selected and paid for by the employer.
- 36. (3) Within 14 days after receiving the worker's objection, the employer may request that the Board direct the worker to submit to the examination and, if necessary, that the Board determine the nature and extent of the examination.

Reports re health care

- 37. (1) Every health care practitioner who provides health care to a worker claiming benefits under the insurance plan or who is consulted with respect to his or her health care shall promptly give the Board such information relating to the worker as the Board may require.

37. (2) Every hospital or health facility that provides health care to a worker claiming benefits under the insurance plan shall promptly give the Board such information relating to the worker as the Board may require.

Report re functional abilities

37. (3) When requested to do so by an injured worker or the employer, a health professional treating the worker shall give the Board, the worker and the employer such information as may be prescribed concerning the worker's functional abilities. The required information must be provided on the prescribed form.

PART V – Return to Work

Obligation to re-employ

41. (1) The employer of a worker who has been unable to work as a result of an injury and who, on the date of the injury, had been employed continuously for at least one year by the employer shall offer to re-employ the worker in accordance with this section.

Determinations re return to work

41. (3) The Board may determine the following matters on its own initiative or shall determine them if the worker and the employer disagree about the fitness of the worker to return to work:

1. If the worker has not returned to work with the employer, the Board shall determine whether the worker is medically able to perform the essential duties of his or her pre-injury employment or to perform suitable work.

2. If the Board has previously determined that the worker is medically able to perform suitable work, the Board shall determine whether the worker is medically able to perform the essential duties of the worker's pre-injury employment.

Labour market re-entry assessment

42. (1) The Board shall provide a worker with a labour market re-entry assessment if any of the following circumstances exist:
 1. If it is unlikely that the worker will be re-employed by his or her employer because of the nature of the injury.
 2. If the worker's employer has been unable to arrange work for the worker that is consistent with the worker's functional abilities and that restores the worker's pre-injury earnings.
 3. If the worker's employer is not co-operating in the early and safe return to work of the worker.

PART VI - Insured Payments

Degree of permanent impairment

47. (1) If a worker suffers permanent impairment as a result of the injury, the Board shall determine the degree of his or her permanent impairment expressed as a percentage of total permanent impairment.
47. (2) The determination must be made in accordance with the prescribed rating schedule (or, if the schedule does not provide for the impairment, the prescribed criteria) and,
 - (a) having regard to medical assessments, if any, conducted under this section; and

- (b) having regard to the health information about the worker on file with the Board.

Medical assessment

47. (3) The Board may require a worker to undergo a medical assessment after he or she reaches maximum medical recovery.

Selection of physician

47. (4) The worker shall select a physician from a roster maintained by the Board to perform the assessment. If the worker does not make the selection within 30 days after the Board gives the worker a copy of the roster, the Board shall select the physician.

47. (5) The physician who is selected to perform the assessment shall examine the worker and assess the extent of his or her permanent impairment. When performing the assessment, the physician shall consider any reports by the worker's treating health professional.

Report

47. (6) The physician shall promptly give the Board a report on the assessment.

Worker's access to records

57. (4) The Board shall not give a worker or his or her representative access to a document that contains health or other information that the Board believes would be harmful to the worker to see. Instead, the Board shall give a copy of the document to the worker's treating health professional and shall advise the worker or representative that it has done so.

PART XIII - Administration of the Act

General

179. (1) No action or other proceeding for damages may be commenced against any of the following persons for an act or omission done or omitted by the person in good faith in the execution or intended execution of any power or duty under this Act:

4. Persons employed by a safe workplace association, a medical clinic or a training centre designated under section 6.
5. Physicians who conduct an assessment under section 47 (degree of permanent impairment).
6. Persons who are engaged by the Board to conduct an examination, investigation, inquiry, inspection or test or who are authorized to perform any function.

Immunity for health care practitioners, etc.

179. (4) No action or other proceeding may be commenced against a health care practitioner, hospital or health facility for providing information under section 37 or 47 unless he or she or it acts maliciously.

Ontario Regulations that apply to Health Care Practitioners

ONTARIO REGULATION 456/97 - FUNCTIONAL ABILITIES FORM

1. (1) The Form is prescribed for the purposes of subsection 37 (3) of the Act.

(2) The information required to complete the Form is prescribed for the purposes of subsection 37 (3) of the Act.

ONTARIO REGULATION 175/98 – RATING SCHEDULE

18.(1) The American Medical Association *Guides to the Evaluation of Permanent Impairment* (third edition revised) as it read on January 14, 1991 is prescribed as the rating schedule for the purposes of subsection 47(2) of the Act.

(2) The criteria prescribed for the purposes of subsection 47(2), for impairments not provided for in the rating schedule, are the criteria in the listings in the rating schedule for those body parts, systems or functions which are most analogous to the conditions of the worker.

*If you need more information,
please visit our web site at
www.wsib.on.ca*



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composez le 1-800-465-5606.
Telephone service for the deaf (TTY): 1-800-387-0050

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CSPAAT Commission de la sécurité professionnelle et de l'assurance contre les accidents du travail