Field Visit Report

Ontario

Ministry of Labour,
Training and Skills Development

Operations Division
Occupational Health and Safety

OHS Case ID: 00823PXJR447
Field Visit no: 00823QBNQ463
Visit Date: 2021-JAN-11
Field Visit Type: CONTINUATION
Notice ID:

Workplace Identification:
SOUTHLAKE REGIONAL HEALTH CENTRE
596 DAVIS DRIVE, NEWMARKET, ON, CANADA L3Y 2P9

Telephone: (905) 895-4521
JHSC Status: Active
Work Force #: 2500
Completed %:

Persons Contacted:
CATHERINE GARDNER (DIRECTOR OF OHS) JILL MOORE (JHSC LABOUR CO-CHAIR)

Visit Purpose:
PROVIDE DIRECTION WITH RESPECT TO MOST RECENT WORKER CRITICAL INJURY DUE TO WORKPLACE VIOLENCE
Visit Location:
VIA EMAIL/TELEPHONE
Visit Summary:
SEE NARRATIVE

Detailed Narrative:

On January 4 2021, the employer provided to the writer an investigation report in accordance with Section 51 (1) of the OHSA as it related to the critical injury incident due to workplace violence that occurred in the Inpatient Cancer area of the workplace on December 30th 2020.

Prior to being notified of and assigned to this most recent incident of workplace violence resulting worker injury at SRHC, the writer was already assigned to and continuing to investigate two other incidents of workplace violence at SRHC that resulted in worker injury since late October of 2020: One that took place in the MACU on October 17th and one in the Yellow Zone of the Emergency Department on October 22nd.

These October of 2020 injury incidents due to workplace violence took place in the wake of SRHC’s conviction in the Ontario Court of Justice on October 16th 2020 as a result of an incident of workplace violence in 2019 that resulted in injuries to two workers, one of which was also critical in nature.

The elements of this most recent incident of worker injury due to workplace violence bear similar causal factors to the latter incident of October 22nd, particularly as it relates to the Personal Safety Response System (Versus Pendant) deployment, function and reliability as well as communication lapses with respect to the history of violence from the patient/assailant(s) involved in each case.

Specifically for comparison:

HISTORY OF VIOLENCE INFORMATION FOR PATIENT/ASSAILANT - OCTOBER 22 2020 INJURY INCIDENT:
It was outlined in the employer’s investigation report of the October 22 worker injury incident that; “Upon further review it was questioned as to whether there was a pre-existing VAAT [Violence, Aggression Assessment Tool] record in place. It was reported that there had been temporary but not permanent VAAT records in place for the patient who was reported to have had multiple hospital visits”.

EMPLOYER’S PROPOSED CORRECTIVE ACTION RE: HISTORY OF VIOLENCE INFORMATION FOR OCTOBER 22 2020 INJURY INCIDENT:
With respect to this element of the incident requiring due diligence to prevent a recurrence, the employer stated in their investigation report: “The VAAT reporting mechanism (in regards to this patient’s case) requires

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MINISTRY OF LABOUR
Training and Skills Development

Safe At Work Ontario

Ontario's Operations Division

Occupational Health and Safety

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Page 2 of 10

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Further review as to whether there was an opportunity to identify this patient's concern.

PERSONAL SAFETY RESPONSE SYSTEM (VERSUS PENDANT) USAGE FOR OCTOBER 22 2020 INJURY INCIDENT:
The employer's investigation report with respect to Versus Pendant usage for the worker injury incident of October 22nd stated: "The staff were delayed in summoning assistance because their pendants were either not in place or not working-four separate reasons".

EMPLOYER'S PROPOSED CORRECTIVE ACTION RE: (VERSUS PENDANT) USAGE FOR OCTOBER 22 2020 INJURY INCIDENT:
With respect to this element of the incident requiring due diligence to prevent a recurrence, the employer stated in their investigation report: “The maintenance of versus pendants requires revisiting”.

A total of SIXTY NINE DAYS elapsed between the October 22nd injury incident coupled with the "Corrective Actions" proposed by this employer to prevent a similar recurrence and the critical injury due to violence from a patient to a worker at this workplace on December 30th 2020.

On this occasion for the same elements:

HISTORY OF VIOLENCE INFORMATION- PATIENT/ASSAILANT FOR DECEMBER 30 2020 INJURY INCIDENT:
According to the employer's investigation report into this worker injury incident, the following was recorded with respect to the communication of violent behaviour history of the patient/assailant involved on December 30th: "The inability for [the injured worker] to identify both history and the hazard due to the missing signage as well as the shift report were identified. Additionally, the patient's behaviour, which was reinforced by the VAAT history, identified that the patient had been calm through the morning but had escalated suddenly.

A previous code was reported on Monday December 28 of which the knowledge was not available at the time of this incident. However, the VAAT had already been in place for this patient (from Dec 22) and was visible for all staff on the unit's display board.

Following [the injured worker's] interview, the author attended the unit and spoke with the patient's primary nurse. It was noted that the VAAT was updated and she stated that the bracelet had been put on the patient. The [required] red warning sign had been on the door frame, however the patient moved rooms and the sign had not moved with him. Also the nurse acknowledged that the 'bell' violence warning had not been added to the chart.

It was also noted that while the VAAT had been updated on December 28, this was not identified to the department manager either for sake of the patient's record or as a staff incident report... In the course of this investigation, it was identified that the December 28 incident involved a code white absent any specific act of violence. The worker did not submit an incident report. This incident was apparently not reported to the unit.
Manager. The author was not able to confirm whether there was a verbal handoff of information. It is perhaps noteworthy that December 28 was a statutory holiday. However the VAAT charting was complete. Further, there was no identified review of the patient’s file after this incident up to the point of the incident on December 30. A behavioural review does not appear in the VAAT record (to the author's knowledge). Post-incident the chart had recorded several triggers but these had not been documented previous to (the injured worker’s) incident.”

EMPLOYER’S PROPOSED CORRECTIVE ACTION RE: HISTORY OF VIOLENCE INFORMATION FOR DECEMBER 30 2020 INJURY INCIDENT:

With respect to this element of the incident requiring due diligence to prevent a recurrence, the employer stated in their investigation report: “In the absence of prior knowledge / history, the staff were not aware of prior behavioural patterns from 48 hours earlier and this knowledge, as well as the now-updated care plan (which includes security participation). Based on available information, one of the four systems was in place prior to the incident, and two of the four systems were in place after the incident. If reporting requirements are indeed continued as per the present, the author proposes that an accountability system needs to be identified and maintained…..In the context of violence prevention, it is recommended that patients with high VAATS should have behaviours communicated irrespective of injuries as triggers….. The patient's care plan showed that he was verbally aggressive and had acting out behaviours as well as wandering tendencies. It is unclear to this author (in the scope of this investigation) whether a request reached a team discussion and whether a behavioural care plan was created beyond the nurse's report. The patient’s aggressive behaviour had been identified eight days prior to the incident with an escalation two days before the incident.”

PERSONAL SAFETY RESPONSE SYSTEM (VERSUS PENDANT) USAGE FOR DECEMBER 30 2020 INJURY INCIDENT:

The employer’s investigation report with respect to Versus Pendant usage for the incident of December 30th stated: “The pendants of most of the workers participating did not deploy at the time of the incident. There was a record of the code call, however it did not come from the first four participating workers. Following (the injured worker’s) interview, her pendant was checked and confirmed to be dead. Additionally, (three other workers from the incident) pendants were also noted not to work. The author was not able to confirm a life span for these batteries. (The injured worker) reported that EVS had changed her pendant battery recently but she did not see the change and did not test it herself. Upon completion of the testing, the author advised that staff need to immediately get their batteries replaced. At the time of security data collection review (about 20 hours later), the nurses had completed a second shift but they had not replaced their batteries.”

EMPLOYER’S PROPOSED CORRECTIVE ACTION RE: (VERSUS PENDANT) USAGE FOR DECEMBER 30 2020 INJURY INCIDENT:
With respect to this element of the incident requiring due diligence, the employer stated in their investigation report: “Use and maintenance of the versus pendants has a requirement delegated to workers to upkeep their equipment by routinely testing batteries. These testers are located on units including at this unit’s nursing station, as well as at badge swipe points (which staff pass to ‘swipe’ in and out each day). While other staff such as EVS may support battery replacement, the ultimate responsibility goes to individuals. The staff participating unfortunately appeared to have had dead batteries, which delayed response times. It is suggested that further review of accountability for battery maintenance be sought.”

Conclusion as it relates to these elements:

COMMUNICATING HISTORY OF VIOLENCE OF PATIENTS AGAINST STAFF AT SRHC:

Despite this employer having established policy/procedure with respect to assessing incoming and admitted patients for potential and/or demonstrated violent behaviours, there is quite obviously an inherent fallibility to the effectiveness of that policy/procedure based on this incident as well as the incident on October 22, 2020 as two examples. The fact that there is even such an element as “temporary VAATs” and “permanent VAATs” is a prime indicator as to why there have been failures in effectively communicating the potential hazards of patient violence towards SRHC staff.

By having evolving/changing variances for precautions on what is supposed to keep a worker protected against workplace violence from a patient at SRHC, it allows for an inconsistent and at times diminished level of vigilance until “newer and worse” violence manifests itself. By the time a low or moderate VAAT patient becomes a “High VAAT” it is usually too late. Patients at this time, can “bounce” back and forth as different levels of VAATs based on a variety of subjective variables throughout the course of their stay at SRHC, making the management/controls of such behaviours unnecessarily cumbersome and ripe for failure and thus potential for worker injury.

Any and all acts of violent assault from a patient to a worker at SRHC are unacceptable and every worker at the workplace has a right to know at all times if the patient they are expected to interact with can be done so in safety regardless of how long ago the last act of violence/aggression from the patient took place at SRHC.

The VAAT system currently in place at SRHC has been demonstrating itself as being inadequate to ensure clear and visible precautions that ALL STAFF must take to protect themselves from the potential ‘or violent assault when interacting with a patient who has had a history of or a current manifestation of such behaviours against workers at the workplace.

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It has been stated that the creation of a “Permanent VAAT” (violence flag) for a SRHC patient who has exacted violence/aggression upon a staff member(s) is denied to the actual front-line workers including those who directly experience or witness the violent/assaultive behaviour personally. This authority is only afforded to managerial and educator personnel as a matter of personal discretion. This is not acceptable in principle.

Input from the staff member(s) affected by the violence of the patient upon a worker(s) is essential to ensure that the preventive measures necessary against potential violence from that patient at any time at SRHC are communicated and maintained on record.

The employer’s assessment and record of patient violence/assaultive behaviour needs to be precisely that: A RECORD.

A “record” as defined in the Concise Oxford Dictionary states that it is: “..a piece of evidence or information constituting an account of something that has occurred...a document preserving this...the state of being set down or preserved in writing or some other permanent form”.

The current VAAT/flagging system is not completely adherent to this definition.

The document “preserving information constituting an account of violent/assaultive behaviour from a patient upon a worker at this workplace” requires to be in “permanent form”.

The information regarding these behaviours should be readily accessible by workers expected to come into personal contact with the patient during their stay at SRHC.

It falls within an employer’s onus of responsibility under the OHSA to ensure that information that has an impact on the health and safety of the workers is shared with those workers.

The permanent record of violent/assaultive behaviour DOES NOT have to constitute ACTION with respect to the patient, such as medical treatments, medications, restraints or security personnel presence, but rather to generate a “conspicuous visual indicator” to a worker that an incident of violent/assaultive behaviour in any form has been exhibited by the patient at SRHC prior, and that it is incumbent upon the worker(s) to determine a current course of action for worker protection going forward with the patient.

Some of these conspicuous visual indicators have already been implemented by SRHC such as a distinctive wristband placed on the patient, “alerting signage” at the door or curtain where the patient is situated, and the “bell” indicator on the patient’s chart.

However as seen in recent cases, either some or all of these conspicuous visual indicators have been either neglected along the patient’s duration of stay at SRHC or not implemented in the first place.

In addition, there have also been lapses of communication between staff members to advise in-coming
personnel of the potential for the patient to exhibit violent/assaultive behaviour.

Moreover, supervisors have a duty under Section 27 (2) (a) of the OHSA to; “advise a worker of the existence of any potential or actual danger to the health and safety of the worker of which the supervisor is aware.” Therefore, conspicuous visual indicators based on the permanent record of violent/assaultive behaviour of the patient coupled with effective communication from supervisors to workers and amongst workers will most certainly contribute to a decline in the number of incidents of patient violence/assault upon workers and the injuries that could result.

An order is herein issued with respect to ensuring that ALL assessments for SRHC patients indicating a history of or currently presenting with violent behaviours are documented by means of a permanent record that is communicated and readily accessible to workers tasked with providing care/comfort to those patients.

An order is also herein issued that conspicuous visual indicators required based on the permanent record of SRHC patient assessments indicating a history of or currently presenting with violent behaviours are in place and visible to workers at the point of patient location.

PERSONAL SAFETY RESPONSE SYSTEM (VERSUS PENDANT) USAGE:

It can be easily argued that the Versus Pendants at SRHC can be considered as "personal protective equipment". That even though the devices themselves can not “protect” a worker from violence/assault per se, the device’s effective use and appropriate response to its alert function most certainly can mitigate the occurrence and minimize the potential for increased injury.

In the employer’s incident investigation report of the December 30th incident, the indication is that the responsibility of ensuring that batteries are acceptable for these devices lies with the individual workers who are issued the devices.

The employer is reminded of Section 25 (1) (b) of the OHSA which states; “An employer shall ensure that the equipment, materials and protective devices provided by the employer are maintained in good condition.

Although the employer can delegate particular action/responsibility to individual workers to ensure that the function of devices such as the Versus Pendant are in “good condition” (ie: battery checks), it does not absolve the employer from its statutory obligation under the Act. The employer must ENSURE that the protective device is maintained in good condition.

In addition, Section 44 (e) of the Regulations for Health Care and Residential Facilities states that for this case,
"equipment" is; "inspected immediately before its use and at regular intervals as recommended by the manufacturer"

Yet the employer's policy titled; "Staff Assist Pendants to Activate Code White and Audible Personal Alarms (Revised October 26 2020) states: "Staff members with a pendant are responsible for testing the battery level WEEKLY (employer's emphasis) at the battery testing devices found at every time clock".

Given the importance of these devices for worker and even public safety at SRHC, seven days is a long period of time to elapse without verifying the efficacy of this protective measure.

At this juncture, it appears that the only time these devices are properly checked by the employer for suitability and function is after a Code White incident or worker injury due to violence.

There have been far too many occasions where these devices have not functioned/signalled for one reason or another as well as battery life issues.

These devices are essential to help protect workers in the event that they require emergency assistance and therefore require a far more stringent regimen of examination for suitable usage at the start of every shift for every worker who has been issued the device.

This most recent incident that resulted in a violent assault and critical injury to a worker is the ultimate indicator that the existing method of determining suitability/function of the Versus Pendants is not effective.

The employer indicated in the wake of the October 22 injury incident due to patient violence/assault that; "The maintenance of versus pendants requires revisiting".

It is not clear to the writer what the "revisiting" has yielded over the course of over 60 days with the exception of yet another worker injury, this time critical due to an incident of patient violence/assault to a worker where the Versus pendants did not fulfill their required and effective function.

An order is herein issued to ensure that the Versus Pendants provided to workers by the employer are maintained in good condition by having documented verification maintained that the devices are in good operating condition at the commencement of a worker's scheduled work shift.

DUTIES OF SUPERVISORS

As already mentioned regarding supervisor's statutory obligations with respect to advising workers of potential or existent danger under their watch, the crucial aspect of effectively carrying out the employer's requirements to protect a worker's health and safety on a daily basis at SRHC is incumbent upon SRHC's supervisors.

Section 27 (1) of the OHSA states that: "A supervisor shall ensure that a worker, (b) uses or wears the equipment, protective devices or clothing that the worker's employer requires to be used or worn."
There are occasions where a worker may have inadvertently neglected to attach their Versus Pendant while at work. However, there should be absolutely no excuse for a worker to conduct their duties throughout their shift absent of their Versus Pendant and NOT be corrected by a member of the supervisory staff who interacts with the worker at the workplace.

ALL supervisors at SRHC must be aware of their Section 27 statutory obligations.

This is a preface to the writer's warning that if from this point forward, if a SRHC worker is injured due to the fact that they are not in possession of their Versus Pendant or that the worker's Versus Pendant is not functioning as intended, there will be consideration for a charge against the worker's supervisor under this Section of the Act if they can not articulate their due diligence in the matter. Supervisors MUST VERIFY that the staff under their supervision are properly equipped to conduct their jobs safely from the onset of their shift and that includes verifying that their protective devices are functional.

The cascading nature of "onus of responsibility" for OHSA compliance in a workplace begins with the employer, then the supervisor, then the worker.

Only on an occasion where both the employer and supervisor can prove their due diligence can the inspector consider a worker to not be in compliance with a provision of the employer's policy/program for their health and safety. If the employer has a policy/program for these signalling devices, then it is incumbent upon the supervisors to make sure the policy is carried out by the workers under their oversight.

In closing, the writer is fully cognizant of the gravity of the orders issued in this report. However, given the extended attempts that this Ministry has made over the years at SRHC including through the courts to succeed in having this employer proactively address and resolve the long-ongoing and outstanding issues regarding protecting workers from the inordinate amount of violent/assaultive incidents at this workplace, the writer sees no other option than to issue more prescriptive direction to protect the workers at Southlake Regional Health Centre.

Notify the writer of order compliance via the attached Notice of Compliance on or before January 25 2021.
### Order(s) /Requirement(s) Issued To:

**To:**  
SOUTHLAKE REGIONAL HEALTH CENTRE CLINIC

**Mailing Address:**  
596 DAVIS DRIVE, NEWMARKET, ON, CANADA L3Y 2P9

**Notice ID:**

**Visit Date:** 2021-JAN-11

**Field Visit Type:** CONTINUATION

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<td>Time</td>
<td>OHSA 1990</td>
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### Inspector Data

**Inspector Name:** NORM RATCLIFFE  
**Position:** OCCUPATIONAL HEALTH & SAFETY INSPECTOR  
**Address:** 102-17345 Leslie Street, Newmarket ON, L3Y 0A4

**Mailing Address:**  
MOLComplianceFormsNewmarket@oster.ca

**Telephone:** (905) 751-8445
**Fax:** (905) 715-7609

### Worker Representative

**Name:**  
**Title:**  
**Telephone:**  
**Fax:**

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To: SOUTHLAKE REGIONAL HEALTH CENTRE
Mailing Address: 596 DAVIS DRIVE, NEWMARKET, ON, CANADA L3Y 2P9

Order(s) /Requirement(s) Description:
You are required to comply with the order(s) /requirement(s) by the dates listed below.

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<td>The employer shall assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work. The employer shall conduct a violence risk assessment for the Inpatient Cancer area of the workplace.</td>
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Comply by Date: 2021-JAN-25

Inspector Data

NORM RATCLIFFE
OCCUPATIONAL HEALTH & SAFETY INSPECTOR
PROVINCIAL OFFENCES OFFICER
102-17345 Leslie Street, Newmarket, ON, L3Y 0A4
Tel: (905) 751-9249 Fax: (905) 751-7489

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Notice of Compliance

Take Notice

Orders were issued under the authority of the Occupational Health and Safety Act or Regulations made there under. A notice of compliance shall be submitted to the ministry of Labour within three days after the constructor or employer believes that compliance with the Order(s) / Requirement(s) have been achieved.

Order(s) / Requirement(s) issued:

To: SOUTHLAKE REGIONAL HEALTH CENTRE CLINIC  
Mailing Address: 17215 LESLIE ST, NEWMARKET, ON, CA L3Y 2P9

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Form completed by: ____________________________
Title: ______________________________________
For / on behalf of ____________________________
Signature: __________________________________

Joint Health and Safety Committee Member representing workers or Worker Representative agrees or disagrees that compliance has been achieved with all the Order(s) as indicated above.

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68810
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<th>Compliance Details / Date</th>
<th>JHSC Worker Member / Comply by Worker Representative Date:</th>
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<td>Disagree</td>
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</tbody>
</table>

Form completed by: -----------------
Title: -----------------
For / on behalf of: -----------------
Name: -----------------
Signature: -----------------

Joint Health and Safety Committee Member representing workers or Worker Representative agrees or disagrees that compliance has been achieved with all the Order(s) as indicated above.

You are required under the Occupational Health and Safety Act to post a copy of this report in a conspicuous place at the workplace and provide a copy to the health and safety representative or the joint health and safety committee if any. Failure to comply with an order, decision or requirement of an inspector is an offence under Section 66 of the Occupational Health and Safety Act. You have the right to appeal any order or decision within 30 days of the date of the order issued and to request suspension of the order or decision by filing your appeal and request in writing on the appropriate forms with the Ontario Labour Relations Board, 505 University Ave., 2nd Floor, Toronto, Ontario M5G 2P1. You may also contact the Board by phone at (416) 326-7500 or 1-877-339-3335 (toll free), mail or by website at http://www.olrb.gov.on.ca/english/homepage.htm for more information.