

ONTARIO NURSES' ASSOCIATION

SUBMISSION

ON

WSIB's Occupational Disease Framework Policy

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The Ontario Nurses' Association (ONA) is the union representing 68,000 front-line registered nurses and health-care professionals, and more than 18,000 nursing student affiliates. Our members provide care in Ontario hospitals, long-term care facilities, public health, the community, clinics, and industry.

Executive Summary

ONA appreciates the opportunity to provide stakeholder considerations on the Workplace Safety and Insurance Board's (WSIB) Occupational Disease Framework Policy.

ONA proposes that WSIB create a rebuttable presumption for infectious diseases contracted by high-risk workers, inclusive of all health-care workers, so they are afforded adequate protections for present and future pandemics. During this pandemic, ONA members and other high-risk workers continue to be exposed to a high degree of risk and many have succumbed to illness from a virus about which very little is known, including its long-term effects. A rebuttable presumption for infectious diseases would assure high-risk workers that their rights will be protected should they be infected on the job.

Background

The purpose of our submission is to propose that the WSIB's current approach to recognizing occupational diseases should be more flexible and inclusive of quickly emerging and immediate threats, especially in light of the ongoing COVID-19 pandemic. According to Section 2.4 of the WSIB's Occupational Disease Framework Policy, part of the process to recognize an occupational disease requires "strong and consistent scientific evidence that a disease is causally linked to a particular occupational risk factor..."¹ While this seems straightforward, it does not help in situations such as the COVID-19 pandemic which quickly turned into an emergency. There was little time to prepare or understand the nature of a new infectious disease and study its effects on specific occupational groups.

WSIB COVID-19 Claim Stats

The WSIB's own COVID-19 claim statistics demonstrate that Ontario's health-care workers have been significantly exposed to COVID-19 infections at much greater levels than workers from other industries.² Three of the top seven industries reported in the data as of February 4, 2022 were health-care sectors, including nursing and residential care facilities, hospitals and ambulatory health-care. While we recognize there is community spread of COVID-19, there has also been a very high Covid-19 claims approval rating of approximately 94% in these three health-care sectors. This confirms the WSIB has repeatedly accepted work exposure as the cause of infection. Based on these numbers,

¹ <https://www.wsib.ca/en/draft-occupational-disease-policy-framework-consultation-purposes#2.4>

² <https://www.wsib.ca/en/covid-19-related-claims-statistics>

we believe it would be beneficial for the WSIB to create a rebuttable presumption that infectious diseases like COVID-19 are work-related for workers in higher-risk settings.

Statistics Canada COVID-19 Risk Index

In addition to the WSIB's claim statistics, Statistics Canada has also produced figures that confirm the health-care sector is the most at-risk sector in the country.³ The health care and social assistance sector received the highest score of 60 on this index. The following is noted in the referenced source from StatsCan:

“Different sectors of the economy present different levels of risk of exposure to the coronavirus. Information about this risk may be important for evidence-based decision-making about how and when to impose or ease restrictions on businesses. To respond to this need, a network of academic researchers across Canada (Baylis et al. 2020) developed a new tool to measure the risk of COVID-19 exposure by occupation, and the importance of different sectors to the economy. The tool has been available to the public since spring 2020 through an app hosted by the University of British Columbia and Centre interuniversitaire de recherche en analyse des organisations (CIRANO).”

Therefore, this is additional scientific evidence produced by a network of academic professionals that is consistent with the WSIB's own COVID-19 claim statistics. The WSIB's data and this information from StatsCan both confirm health-care workers are most at risk. As noted by StatsCan, the purpose of this information was to assist government with evidence-based decision-making in terms of restrictions, but we also believe this information can help lead evidence-based decision-making in terms of protecting the most at-risk workers in Ontario.

British Columbia (BC) Example

The province of BC has already taken proactive measures in response to the COVID-19 pandemic by including infectious diseases in their Occupational Disease Schedule.⁴

We recommend that Ontario workers be given similar rights. This is important not only now with COVID-19, but it will also help in the likely event of future public health emergencies where health-care workers would once again be most at risk on the front lines. If a rebuttable presumption is created similar to what BC workers have, then high-risk workers in Ontario can continue to do their important work while confronting risk and have some degree of mental comfort knowing their rights will be better protected in the

³ <https://www150.statcan.gc.ca/n1/pub/36-28-0001/2021004/article/00006-eng.htm>

⁴ <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/workers-compensation-act/schedules>

event they are infected while on the job. For example, a nurse who has been working on the front lines and is infected during a newly identified public health emergency should not have to worry that their claim may be denied while scientific evidence and studies are being conducted to better understand a new disease.

We believe that the WSIB's occupational disease framework should be more flexible and allow for Ontario workers to have similar protections that BC workers have been provided. In a future global pandemic, as it stands, Ontario high-risk workers would have to undergo a more rigorous claims process than BC workers. At a time when industries such as the nursing industry are facing serious staffing issues, giving high-risk workers additional protections that are extremely relevant to their occupational risks is a good idea for the workers and the public at large.

Proposal – Operational Policy vs. Schedule 3

We propose that the WSIB's framework should be more flexible and give consideration to the unique experiences of high-risk workers during public health emergencies. Our recommendation is to have a rebuttable presumption for infectious diseases, such as COVID-19, to be included in Schedule 3 of the *Workplace Safety and Insurance Act (WSIA)*. The threshold for entry in Schedule 3, as cited in Section 3.4 of the WSIB's Occupational Disease Policy Framework, supports our recommendation to have infectious diseases included in the schedule:

“Threshold for entry in Schedule 3:

Diseases may be considered for entry in Schedule 3 when there is strong and consistent scientific evidence supporting a multicausal association with the disease, with one or more causes being an occupational risk factor. Entry in Schedule 3 will be appropriate when the scientific evidence shows the risk of disease is increased in certain occupational processes (i.e., high-risk subgroups) and the processes can be clearly articulated. However, if work-relatedness in individual claims is often rebutted because the disease is common in the general population and often attributable to non-occupational risk factors, operational policy may be the more appropriate tool to use.”⁵

The WSIB's claim statistics are again relevant here. While we know COVID-19 has been transmitted via many sources including community spread, the fact that such high percentages of claims have been approved demonstrate the work-relatedness of claims has not been rebutted often. In other words, when high-risk workers like nurses have been filing WSIB claims for COVID-19, the evidence has demonstrated the infection was work-related in most cases. This evidence supports a presumption, and in accordance

⁵ <https://www.wsib.ca/en/draft-occupational-disease-policy-framework-consultation-purposes#sched3>

with the WSIB's own framework, this would suggest it is more appropriate to include infectious diseases like COVID-19 into Schedule 3 instead of operational policy.

Conclusion

In summary, we believe the statistics referenced from the WSIB and Statistics Canada already confirm certain occupational groups, including nurses and health-care workers, are at a much greater risk during pandemics caused by infectious diseases such as COVID-19. However, it is our recommendation that the WSIB consider providing more flexibility within their current occupational disease framework. Infectious diseases like SARS and COVID-19 develop rapidly, spread quickly and put certain occupational groups at immense and immediate risk without the time to study their effects.

As noted in Section 1.1 of the Occupational Disease Framework Policy, the existing approach is "WSIB relies on scientific evidence, generally drawn from peer-reviewed published research..." and "well-conducted epidemiological studies."⁶ While we agree such scientific evidence is helpful, it is simply not possible to wait for this when a fast-moving and deadly infectious disease is sprung upon Ontario's health-care workers. Imagine waiting for peer-reviewed research and epidemiological studies during the first few months of the COVID-19 pandemic in early 2020.

Therefore, we propose Ontario follow the lead of BC and create a rebuttable presumption for infectious diseases contracted by high-risk workers, so they are afforded adequate protections for present and future pandemics. Infectious diseases like COVID-19 are a unique category of diseases and should be treated as such with more flexibility outside of the WSIB's traditional approach.

⁶ <https://www.wsib.ca/en/draft-occupational-disease-policy-framework-consultation-purposes#1.1>