

Legislation

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Psychological Health and Safety in the Occupational Therapy Workplace

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INTRODUCTION

According to a 2009 survey conducted by the Institute of Health Economics, 44% of female and 33% of males employed in Alberta experienced at least one psychological disorder over a life span (1). These findings underscore the importance of psychological health and safety in the workplace.

Provincial health and safety legislation, which has historically focused on physical health hazards, stipulates that employers have a legal obligation to maintain a healthy and safe work environment. Recent legal decisions however suggest that this obligation extends to the need to also maintain a psychologically healthy and safe workplace (2). Thus workplace practices that create risk of psychological injury can lead to legal liability.

Legislation, both provincial and federal, and well-documented workplace standards recognize that responsibility for workplace health and safety rests with both **workers** and **employers** (3). Each of their rights and responsibilities are outlined for situations where there is risk of a) workers acquiring psychological ill health, and/or b) exacerbating existing mental illness. The former refers to situations in which healthy individuals become psychologically compromised due to chronically stressful and/or demanding workplace environments while the latter refers to persons with an existing mental diagnosis that is negatively impacted by workplace conditions.

RELEVANT PROVINCIAL LEGISLATION

1. Occupational Health and Safety Act (3)

With respect to workplace psychological health and safety in Alberta, the Occupational Health and Safety (OHS) Act lists the following among **employer** responsibilities:

- identifying hazards, conducting a written hazard assessment and implementing controls (an example of a hazard would be a workload that requires excessive overtime e.g. a hand clinic that routinely extends hours past its scheduled closure). Psychological hazards and risks must be reported and investigated.
- informing workers of any hazards on the job site (for example working with highly traumatized clients on an ongoing basis)
- ensuring that workers are aware of their responsibilities and duties under the OHS Act
- ensuring that workers completing work are either competent to do so, or under the direct supervision of a worker who is competent

For **workers** the OHS legislation extends beyond individually focused strategies in dealing with psychological hazard such as improving one's time management or learning mindfulness practices. The legislation stipulates that occupational therapists must also:

- take responsible care to protect the health and safety of themselves and other workers, and
- cooperate with their employer to protect the health and safety of themselves and other workers"

The document, *Best Practices Guidelines for Occupational Health and Safety in the Healthcare Industry*, (4) developed by the Government of Alberta is an excellent source of information for the use and application of the OHS Act.

2. Alberta Human Rights Act (5)

This Act prohibits discrimination based on mental disability – which it defines as any mental disorder or learning disorder, regardless of its cause or duration. The Act also requires that employers and service providers make reasonable efforts to accommodate individuals with disabilities to the extent that undue hardship is not caused. Specifically, section 7 stipulates that no employer shall:

- a) refuse to employ or refuse to continue to employ any person, or
- b) discriminate against any person with regard to employment or any term or condition of employment, because of the race, religious beliefs, color, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

3. Workers Compensation (6)

The Workers Compensation Act of Alberta states, “invalid means a person who is incapable of becoming gainfully employed due to physical or mental capacity”. On its face however it does not appear to apply to illness or disability that directly results from psychological hazards in the workplace. Advocacy in this area is indicated.

4. Alberta Health Professions Act (7)

Whether they are acting in the role of employee or employer, occupational therapists are regulated health professionals, and as such are bound by the Alberta College of Occupational Therapists (ACOT) Standards of Practice (regulatory requirements defining minimal practice standards) and Code of Ethics (values and principles guiding conduct) [8].

As relates directly to occupational health and safety, Standard 9 of the College’s **Standards of Practice** stipulates that the occupational therapist shall:

- 9.1 Maintain appropriate management structures and organizational structures and processes for his/ her practice.
- 9.2 Demonstrate safe work practices by identifying potential risks and minimizing those risks in the practice setting.

The competence section of the ACOT **Code of Ethics** also relates directly to occupational health and safety in the workplace. It specifies that: Occupational therapists shall strive to achieve high standards of competence.

This commitment to competence is indicated by:

- 3.1 reviewing practice and engaging in professional development
- 3.2 providing services only in areas of competence
- 3.3 not providing services when impaired/by substances/illness
- 3.5 assisting colleagues/students to achieve and maintain competence

Reminding employers of the requirements of this act may be useful to occupational therapists in collaborating with them to mitigate psychological hazards.

5. Health Sciences Association Collective Agreement 2013-2016 (8)

Though this is not legislation per se it is a legally binding document. Section 42 includes the following stipulations with regard to occupational health and safety considerations:

- The Parties to this Collective Agreement will cooperate to the fullest extent in the matter of occupational health, safety and accident prevention.
- The Employer and employees will take reasonable steps to eliminate reduce or minimize all workplace safety hazards.
- If an issue arises regarding occupational health or safety, the employee or Union shall first seek to resolve the issue through discussion with the applicable immediate supervisor in an excluded management position. If the issue is not resolved satisfactorily, it may then be forwarded, in writing, to the committee.

In addition, Letter of Understanding #12 states that:

WHEREAS the Parties agree that for employees in some disciplines, day-to-day flexibility around their start and end time provides the employee with more control of the way their work is done and also increases their ability to provide responsive services to clients. (p. 107)

This is not an exhaustive representation of the provisions of the agreement. Rather the latter are examples of potential avenue of advocacy for occupational therapists who may wish more autonomy in their work. The agreement provides a process for seeking this out with one's employer.

REFERENCES

1. Institute of Health Economics. The Alberta survey of addictive behaviors and mental health in the workforce. [Cited 2016, February 10] Available from <http://www.ihe.ca/te-alberta-survey-of-addictive-behaviours-and-mental-health-in-the-workforce-2009>
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6. Government of Alberta. Workers Compensation Act. [cited 2015 October 20]. Available from <http://www.qp.alberta.ca/documents/Acts/W15.pdf>
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