



# Physicians and workplace safety, what are employers' obligations to employees?

An article for physicians by physicians  
Originally published June 2010

Page 1 of 2

## ABSTRACT

*Physician-employers have a duty to protect the health and safety of their employees and should be aware of their obligations as employers.*

If you employ staff in your practice (e.g., receptionists, nurses, etc.), you have legal responsibilities as an employer. As well, if you work in a hospital or other organization, you may be required to assist in fulfilling the organization's responsibilities as an employer. While the CMPA does not typically assist or advise its members with business/employment matters, you should be aware of your obligations as an employer.

### The employment relationship

The law recognizes that employers have the right to exercise a certain level of control over their employees. Such control, however, also means employers have a duty to reasonably protect staff members while they are doing their job. Although this duty exists without specific legislative provisions, most provinces and territories have legislation that imposes obligations on employers to reasonably protect the safety of their employees while on duty.

For example, Alberta has the Occupational Health and Safety Act (OHSA) and its Regulations. This legislation has a statutory requirement that all employers who employ one or more workers (including hospitals, contractors and subcontractors), as far as reasonably practicable, protect the health and safety of workers engaged in the employer's work or who are present at the work site where the employer's work is being carried out.

Depending on the jurisdiction, employers may be expected to provide information, instruction and supervision to workers to protect their health and safety. One of the most publicized examples of this duty is the recent H1N1 pandemic. In this situation,

employers are expected to give employees information on disease control measures and potential outbreaks that may affect their health while at work. As part of their obligations to take reasonable precautions to protect employees, employers may also be required to compel employees with a confirmed case of a communicable disease not to report to work.

### Duties can extend beyond the workplace

For the most part, an employer's duty is limited to protecting workers while performing their contractual duties. In the case of a physician-employer, this would typically be limited to protecting staff while they are in the physician's office or performing other business on behalf of the physician. In some cases, however, the duty on employers may extend beyond the workplace.

An example of this is the recent workplace violence legislation enacted in Ontario. As a result of Bill 168, the province's Occupational Health and Safety Act was amended. The changes impose obligations on employers to take reasonable precautions to protect employees from workplace violence. This includes preparing and maintaining a violence and harassment prevention program, and warning workers of a risk of violence in the workplace that will likely expose the worker to physical injury.

In addition, employers in Ontario are required to respond to domestic violence that they become aware of or ought to become aware of. It must be likely that the domestic violence will expose a worker to physical injury in the workplace. In such a situation, the employer must "take every precaution

CMPA members are encouraged to contact the CMPA about specific medico-legal concerns at 1 800 267-6522.

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*Continued . . .*

Page 2 of 2

reasonable in the circumstances for the protection of the worker.”

Employers in Ontario are also responsible for performing a workplace violence risk assessment that measures recognized threats or hazards in a specific work environment. This assessment includes reviewing relevant documentation, surveying and/or interviewing employees, performing a work site audit (e.g., reviewing the physical facilities for environmental risk factors, completing a risk identification checklist), performing analysis, and arriving at recommendations that are then included in a report.

## Getting help with rules in your jurisdiction

Workplace health and safety legislation varies across jurisdictions. Although all employers are subject to a general duty to reasonably protect their employees, each province or territory has its own unique requirements. If you are a physician-employer, speaking with your employment or personal lawyer will help ensure you are aware of and complying with the rules that apply in your jurisdiction.

Additional resources may be available from provincial/territorial/federal ministries of labour (see [www.rhdcc-hrsdc.gc.ca](http://www.rhdcc-hrsdc.gc.ca) for a complete list), provincial/territorial medical associations, or professional associations such as provincial/territorial colleges of family physicians.

## PHYSICIAN-EMPLOYEES FACING EMPLOYER ACTION

If you work in a hospital or with other organizations and are alleged to pose a threat to other employees' health and safety, you may be the subject of a disciplinary or other action by the employer carrying out its duty to protect its employees. If your employment or privileges may be affected by action being taken or contemplated by your employer or hospital, CMPA members are advised to contact the CMPA for advice and assistance.

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*Back* ◀

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