

Mental Health In The Workplace: Obligations And Best Practices



The workplace is undergoing a major transformation. The continuation of telework in some work environments, a full-time return to the office in others, and the introduction of new obligations for employers all demonstrate that the organization of work is experiencing significant changes.

These changes pose a number of challenges for employers in Québec, especially when it comes to protecting the mental health of their employees. What are the various employer obligations toward employees? What best practices can employers put in place to promote employee mental health? This article provides an overview of these issues.

Employer Obligations—Identifying, Addressing and Reducing Psychosocial Risks

Bill 59 amends the Act respecting occupational health and safety by introducing the concept of **protecting workers' health and ensuring their safety and mental well-being**. The employer must identify work-related psychosocial risks and the measures and priority actions to eliminate them or at least mitigate them. Employers must therefore identify, address and reduce the risks.

Paragraph 3(1) of section 81.19 of the Act respecting labour standards requires that the policy on preventing and dealing with situations of psychological harassment include methods and techniques for identifying, managing and eliminating these risks, including conduct taking the form of comments, actions or gestures of a sexual nature.

The CNESST has specifically identified the following psychosocial risks in the workplace:

- Workplace harassment
- Workplace violence
- Domestic violence in the workplace
- Sexual violence in the workplace
- Exposure to a potentially traumatic event

However, it's important to note that this list is the CNESST's interpretation. Employers need to consider the psychosocial risks specific to their own workplace—they may find that one of the risks highlighted by the CNESST (e.g.

workplace violence) doesn't exist.

The Institut national de santé publique du Québec has defined a number of factors to help identify the risks. Some of these factors may be related to psychosocial risks, depending on their prevalence in the workplace concerned.

Real or perceived workload, decision-making autonomy, recognition at work, social support from managers and colleagues, and organizational justice are all examples of factors influencing psychosocial risks in the workplace. The CNESST also considers workers and employers' rights and obligations as risk factors, although the inclusion of these two factors is the subject of criticism.

Violence can also manifest itself in a variety of ways—some obvious, some more insidious. In addition to manifestations of physical force and disparaging remarks, acts of economic violence and cyber violence can also increase the psychosocial risks.

Identifying risk factors is not an obligation under the new legislation. However, as mentioned above, a factor that's sufficiently prevalent may in itself constitute a psychosocial risk, which the employer must then identify. The employer will then take measures to eliminate or reduce the risk in question. It all depends on the work environment.

Best Practices: Working With the Health and Safety Committee and Standardizing Processes

To identify psychosocial risks, we recommend working with the employer's health and safety committee. For example, in conjunction with the committee, the employer could prepare an anonymous questionnaire to highlight risks and risk factors, and ask workers to complete it. Once this information is in hand, it'll be easier to identify the psychosocial risks and the ways to mitigate them.

This identification exercise could be carried out periodically by the employer, in collaboration with the company's health and safety committee (every 5 years, for example). The employer would thereby demonstrate its diligence in complying with its obligations to identify, control and/or eliminate the psychosocial risks.

There are many examples of good practices, and each workplace will come up with its own solutions. The key is to make a genuine effort to identify the psychosocial risks specific to each workplace.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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