

Workers Compensation Act to Address Bullying in the Workplace



With workplace bullying and harassment on the rise in British Columbia, and high profile harassment law suits very much in the news, the BC government introduced further amendments to Bill 14 – *Workers Compensation Amendment Act*, 2011 on May 2, 2012 to address workplace bullying. These amendments add to the significant changes already proposed in Bill 14, which all employers should be aware of.

Background to Bill 14

In November 2011, the government tabled Bill 14 to amend the *Workers Compensation Act*. The main feature of Bill 14 was that it allowed workers suffering from cumulative work-related stress to apply for, and be granted, benefits. Previously, workers were only entitled to benefits for stress related illness if the stress arose from sudden and traumatic events.

New Amendments to Deal with Bullying

With the May 2, 2012 amendments to Bill 14, the definition of “violence” in the *Workers Compensation Act* will be expanded to include bullying, and employers will be required to implement formal plans to deal with bullying. The term “mental stress” in section 5.1 of the *Workers Compensation Act* will be changed to “mental disorder” and a mental disorder would now be compensable if the disorder is caused by a significant workplace stressor, which **includes** bullying or harassment. To be eligible to be compensated for a disorder, a diagnosis is required from a psychiatrist or a psychologist, not simply a physician. Furthermore, the diagnosis must fall within the most recent American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders. To address the all too common “stress claim” that follows a discipline event, the amendments to Bill 14 clearly exclude from coverage any disorder that arises from discipline, termination of employment, or a change in working conditions.

WorkSafeBC has been tasked with developing a policy on bullying and harassment, as well as a “tool kit” for both employers and employees. When that policy and tool kit are published, we will include them in future newsletters.

When the legislation is implemented, BC will join the ranks of Ontario, Manitoba, Saskatchewan, and Quebec, which have addressed bullying and harassment either through changes to health and safety legislation or employment standards legislation. Federal

workers in Canada have been protected from workplace bullying since 2008 through amendments to the *Canada Occupational Health and Safety Regulations*.

By Heather Hettiarachchi.