

Helpful Legal Information for MAHCP Members

The Importance of Early Participation in Occupational Health

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There is an ever increasing reliance on technology in the workplace. This is especially true in the world of health care. The proliferation of advanced electronic equipment in the diagnosis and treatment of patients is expanding at an ever increasing rate. The health care workplace is changing enormously as a result. Unfortunately, the changes never seem to simplify the workplace, the use of new technologies always seems to create more complexity. That increased complexity means the workforce that drives the healthcare industry has had to adapt to become more specialized and professionally educated. The Manitoba Association of Healthcare Professionals is well poised to represent this ever increasing association of paramedical professionals. That representation comes with a responsibility borne by all or our members and especially those who sit on the workplace safety and health committees.

With the specialization and increased use of technology come challenges to the workplace that our predecessors did not have to deal with. The constant use of technology in the workplace requires continuous repetitive movement (keyboarding, mouse manipulation, constant visual monitoring) that can increase the risk of injury where the risk was not there previously.

The same proliferation of electronic gadgets that aid the employer's goal of providing advancements in diagnosis



and treatment may in some case also be available to employees so as to ease the risk of injury brought on by the use of the new technologies. In today's work environment there is a greater opportunity to tailor the environment to the needs of the employee then ever before.

The rush to apply new technologies often ignores an important aspect of the application of the technology on the physical wellbeing of the employees using the technologies.

The sole focus of the employer is on patient care and the advancement of the technology itself. In days gone by it was a fairly simple matter for an employer, an employee or the union to establish whether the machinery employed to do the job had a negative physical impact on employees. If an employer decided to run a new machine there was the opportunity to observe, run and assess whether there were personal safety issues with respect to the operation of that machinery. If the union or employee determined that the machine was not safe, Workplace Safety and Health (WSH) was called and an inspector brought in to assess the safe operation of the machine by observing it in action.

It is not so simple anymore. What happens if that inspector is called in by an employee suffering index finger, eye, or thumb strain by almost continuous operation of a portable online device (POD)? The POD itself is a fairly innocuous device and its operation might

hardly be deemed to represent a safety risk over a period of short term use. Its occasional use will likely not present a safety issue for most people. There are those however who do not have the vision capability or the finger strength to operate this device for extended periods of time without physical difficulty. In certain employee's hands, this new form of technology may be impossible to operate in the conventional manner.

Members serving on workplace safety and health committees need to be aware of technological changes made by the employer and how they will affect individual employees with all of their individual abilities and disabilities.

One of the travesties of the move to a new technologically advanced workplace is that often physical disabilities are not recognized or accommodated.

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The focus of the employer is on ensuring the people, equipment and the means to operate that equipment provide the best possible patient care not on how individual employees may be detrimentally impacted by the new technologies.

There is a human rights issue at stake in the recognition of the fact that not all employees have equal ability to perform physical tasks.

The Human Rights Code and the individual collective agreements impose a duty on the employer to accommodate employees who are adversely impacted by the work environment so as to work a discrimination on the employee based on their physical inability to perform a certain function. Asserting the rights to accommodation can be a long and drawn out process that might be avoided where due consideration is given to the physical impact new methods and technologies have on employees.

It is at the initial stage, when the new technology is first introduced that the most can usually be done to dull its detrimental impact on the health of the employees implementing the technology. This is where a committee member on the OHS committee can be the most effective. Many times the technology available to the employer providing the medical services is also available to alleviate the impact of physical strain inherent in the application of the technology. Devices such as ergonomically accommodating keyboards, voice recognition software and oral script readers are readily and economically available to alleviate some of the strenuous impact of the environment that may present a hardship to a minority, or in some cases a majority, of the individuals performing the new

function.

Providing the means to make an employee's job safer and healthier is at the heart of the duty to accommodate. The theory of accommodation is that the employee should not necessarily have to confirm to an unyielding, inhospitable work environment, rather consideration should be given to making the environment more hospitable so as to accommodate the individual abilities of the employee.

The duty to accommodate does not rest solely with the employer. The union, employer and each individual member of the association must be vigilant to and advocate on behalf of themselves and their fellow employees so as to address workplace health concerns before they cause serious problems.

New technologies are taking healthcare to amazing and new places. It is only when all of consequences of the new technologies are considered and accommodated that a true feeling of worth and progress can be achieved through the use and expansion of new technologies.

As you know, Inkster Christie Hughes LLP offers a legal assistance program to the members of MAHCP. Under this plan you receive reduced rates on a number of specific legal matters such as the purchase or sale of a home, Wills, Powers of Attorney, Health Care Directives, separation agreements, divorces as well as a reduction on general legal rates.

This paper is intended as an introduction to the topic and not as legal advice. If you require specific advice with respect to your situation, you should contact a lawyer.

This series of articles will continue in future editions of the MAHCP News. If there is a topic that you would be interested in, please contact Wendy at 772-0425.