

**PSHSA.ca**

# **Work Refusal Toolkit for Workplace Violence**



## **Work Refusal Toolkit for Workplace Violence**

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# Table of Contents

Terms of Use .....	3
Introduction .....	5
Worker Rights .....	8
Examples of Work Refusals .....	10
Limitations to Work Refusals .....	11
Work Refusal Process and Stages .....	13
Workplace Safety and Work Refusals .....	16
Work Refusal Healthcare Scenarios .....	20
Situations that May Arise Questions & Answers .....	24
Appendix A: Work Refusal Flow Chart .....	27
Appendix B: Work Refusal Sample Policy .....	28
Appendix C: Work Refusal Documentation Form .....	36
Appendix D: 'Check My Workplace Violence Work Refusal Knowledge' Checklists .....	41
Appendix E: Work Refusal Process Checklist .....	45
How the Toolkit was Developed .....	49
Acknowledgements .....	50
Definitions .....	51
Resources and References .....	52

# Introduction

## About PSHSA

The Public Services Health & Safety Association (PSHSA) is funded by the Ministry of Labour, Training and Skills Development (MLTSD) and provides occupational health and safety training, resources, and consulting services to reduce workplace risks and prevent workplace injuries and illnesses. PSHSA serves more than 10,000 organizations and over 1.6 million workers across the province's education and culture, community and healthcare, municipal and provincial government, and emergency services sectors.

The mission at PSHSA is to create safer workplaces through collaboration, innovation, and knowledge transfer. This is done by delivering solutions that address existing and emerging occupational hazards to support stakeholders in establishing and maintaining safe environments and healthy workers.

## Making Violence Prevention a Priority in Ontario Healthcare Workplaces

Healthcare workers are a vital part of our health system. They are skilled, caring individuals, dedicated to their duty of care. However, too often they experience acts and threats of violence in the workplace that jeopardize their psychological and physical well-being. Whether violent events originate from care recipients, family members, friends, strangers, other staff, or are a cross over from domestic violence, the impact can be damaging and affect all involved. Violence in healthcare workplaces is further complicated by the varying types of healthcare workplaces (e.g., hospitals, long-term care homes, home and community care settings), each with a different mix of staffing, care recipient needs and workplace violence prevention approaches.

Violence against healthcare workers is a serious issue that demands system-wide attention and action. Provincial statistics suggest that although progress has been made to improve safety on the job, healthcare workers continue to experience one of the highest rates of workplace violence of all workers in Ontario (WSIB EI Database, 2018).

*Workers should feel safe and secure at work. Violence must not be tolerated or accepted as part of the job.*

In 2015, the Ministry of Labour (now called the Ministry of Labour, Training, and Skills Development) and the Ministry of Health and Long-Term Care (now separated into the Ministry of Health and the Ministry of Long-Term Care) made reducing workplace violence in healthcare organizations a priority. As a first step, a provincial Leadership Table was created to work in partnership with stakeholders across the sector, including the PSHSA, to develop recommendations and resources to increase awareness of the issue and advance prevention outcomes.

In 2019, the MLTSD also released a violence prevention guide called [\*Workplace violence prevention in health care: A guide to the law for hospitals, long-term care homes and home care.\*](#)

## About the VARB Toolkits

The Violence, Aggression, and Responsive Behaviour (VARB) Toolkits are evidence-informed toolkits developed by PSHSA, in collaboration with healthcare partners, to help address violence against healthcare workers. Each toolkit includes prevention strategies and a variety of support materials to help enable robust workplace violence program planning and implementation. The toolkits can be used as a comprehensive resource or accessed as stand-alone resources to address an immediate priority. For more information, visit [www.workplace-violence.ca](http://www.workplace-violence.ca).

## Why Focus on Workplace Violence Work Refusals?

Workers in Ontario have the legal right to refuse work or refuse to do particular work that they believe is likely to endanger them, such as situations of workplace violence. This legal right ensures that workers have a voice in situations of real or perceived danger.

It can be difficult for workers, supervisors, and employers in the healthcare sector to understand the process and potential benefits of a work refusal (i.e., the potential for a work refusal to protect workers and improve future measures and procedures). It can also be difficult for a worker in a healthcare setting to understand their duties and/or decide when to refuse work. Work refusal may not be very common in healthcare settings compared to other industries, however, when complex and uncertain situations arise such as SARS (Sibbald, 2003), Ebola, COVID-19, or workplace violence, the *Occupational Health and Safety Act's* (OHSA) provision of work refusal tends to be used with increased frequency.

## Toolkit Purpose and Scope

The purpose of this toolkit is to be a resource for employers, supervisors, and Joint Health and Safety Committees or health and safety representatives (JHSC/HSR) in the healthcare sector to support their organizational response to work refusals. The toolkit is also a guide for workers in healthcare so they understand their right to refuse unsafe work due to workplace violence.

The toolkit provides guidance to describe:

- Work refusal challenges and sources of workplace violence
- Worker's right to refuse unsafe work, what constitutes a work refusal, and limitations under the OHSA
- Professional abandonment considerations
- The process and stages for refusing work and situations that may arise
- The difference between a work stoppage (bilateral and unilateral) and a work refusal
- The impact of organizational culture and the Internal Responsibility System (IRS) on work refusals
- Work refusal scenarios in healthcare settings

**Note:** Throughout the toolkit, the term **care recipient** is used to refer to a patient, resident, or client who receives care from a healthcare provider in any setting such as hospital, long-term care, or home and community care. The terms **violence** and **violent behaviour** are used to mean violence which includes aggressive or responsive behaviours in the workplace.

## Work Refusal Challenges and Opportunities

Under the [OHSA](#), workers have the right to refuse work or refuse to do particular work where the worker has reason to believe that workplace violence is likely to endanger them. This may include situations where workplace violence hazards have not been identified or controlled adequately, when personal protective equipment is not available or has not been maintained, or there is inadequate monitoring and training. Regardless of the reason, the work refusal provision in the OHSA is a way to protect workers from harm and should be viewed as a positive intervention before an accident occurs. It provides employers and supervisors an opportunity to conduct an investigation and, if required, implement control measures and corrective actions to ensure everyone's safety.

Several challenges and barriers with work refusals include, but are not limited to:

- Employers, supervisors, workers, JHSC/HSR not knowing about or fully understanding worker rights under the OHSA, including the right to refuse unsafe work due to workplace violence

- Employers, supervisors, workers, JHSC/HSR not understanding the:
  - circumstances when workers can refuse unsafe work;
  - work refusal limitations; and/or
  - process for a work refusal, including, but not limited to: when and how to trigger a work refusal, when to call the MLTSD, what happens when a worker goes off shift during a work refusal, who attends the investigation
- The dilemma created by a worker's right to refuse work and professional college standards for discontinuing care
- Perceptions that work refusals are always a negative and an unwanted activity
- Focusing on the worker refusing work instead of on the work believed to be unsafe
- Employers and supervisors not aware of their duties and responsibilities under the OHSA and its regulations to protect workers. For example:
  - identifying, assessing, and reassessing actual or potential risks to workers
  - ensuring measures and procedures are in place and, for those workplaces which the [Health Care and Residential Facilities Regulation](#) applies, that the measures and procedures are in writing
  - ensuring the availability, maintenance, and provision of protective clothing, devices, and equipment required for workers to do the job safely; and workers are trained on the care, use, and limitations before wearing / using them
  - providing information, instruction, training, and education to workers to protect themselves
  - taking every precaution reasonable in the circumstances for the protection of the worker
- Workers unaware of their duty to report hazards (or are aware, but do not report hazards) to their supervisor or employer when they arise and not knowing that reporting hazards could potentially prevent work refusals
- Workers not reporting hazards because they believe that no action will be taken to resolve the hazard
- The difference between a work refusal and a complaint or report of a hazard
- Employers, supervisors, and workers believing that workplace violence is part of the job

Work refusals can be viewed as opportunities for learning, quality improvement, and as a way to protect workers from harm. Workplaces with a strong Internal Responsibility System (IRS), health and safety policies and procedures (including hazard reporting and investigation), and a strong culture of safety can use work refusals as learning and prevention opportunities. See the below sections on an effective IRS and positive safety culture for additional information.

## Sources of Workplace Violence

The source of workplace violence can include the following categories or types:

<b>Type I</b>	<b>External Perpetrator</b> – the violent person has no relationship to the worker or workplace.
<b>Type II</b>	<b>Client/Customer/Care Recipient</b> – the violent person is a care recipient at the workplace who becomes violent towards a worker or another care recipient.
<b>Type III</b>	<b>Employment Related</b> – the violent person is a worker (co-worker, supervisor, manager) or has / had some type of job-related involvement.
<b>Type IV</b>	<b>Domestic Violence</b> – The violent person has a personal relationship with an employee or client.

In healthcare and community settings, a common type of workplace violence is **Type II – violence from a care recipient towards a worker.**

## Worker Rights

The OHSA and regulations provide protection for workers in the workplace. It is the minimum standard for health and safety that employers, supervisors, and workers must meet. The OHSA outlines the duties of employers and other persons to ensure workers know about hazards and that controls are put into place to protect them.

The OHSA provides three worker rights:

### 1. Right to Know

Workers have the right to know about actual or potential hazards in the workplace, such as workplace violence, and the controls put in place by the employer/supervisor so that workers can be safe at work.

### 2. Right to Participate

Workers have the right to participate in health and safety by reporting hazards to their employer/supervisor, receiving information and other reports when requested respecting occupational health and safety, and/or by participating on the JHSC or as a health and safety representative (HSR).

### 3. Right to Refuse Unsafe Work

Workers have the right to refuse work, refuse to enter an area, or refuse a particular task that they have reason to believe to be unsafe under certain situations, including workplace violence. For the initial refusal, the worker only has to believe the work to be unsafe such as the belief that workplace violence is likely to endanger the worker.

It is important to note that work refusal rights are for risks to safety alone, not for refusing work because it is not part of a worker's job.

### Entitlement to Participate in Investigation and to be Paid

The worker does not lose pay when they refuse work. Additionally, the worker must be made available to participate in the investigation if on duty. The OHSA also mandates that the **worker safety representative** such as a JHSC worker member/HSR or another worker (as explained in the sections below) brought in to assist with the investigation be paid at their regular or premium rate as applicable.

### Worker's Right to Refuse without Fear of Reprisal

Workers have the right to refuse work they believe is unsafe due to workplace violence without fear of reprisal. The employer/supervisor is not allowed to:

- fire or threaten to fire
- suspend or discipline, or threaten to do so
- intimidate or coerce including, for example, bullying or strongly encouraging not to report
- impose any penalty upon including, for example, transferring the worker to another position, shift or work location; reducing or changing work hours or denying a raise or benefits that the worker's entitled to because, a worker has:
  - acted on their rights under the OHSA
  - followed or asked the employer/supervisor to follow the OHSA
  - given information to a MLTSD inspector or followed an inspector's order
  - testified at a hearing (i.e., in court or at the Ontario Labour Relations Board) about occupational health and safety enforcement

A worker is also allowed to be wrong if they refuse work or refuse to do a particular task based on a belief of unsafe work. If a MLTSD inspector rules that the work refusal is not likely to endanger the worker, the employer/supervisor cannot then retaliate (e.g., dismiss, discipline, threaten, intimidate, etc.) the worker that refused the work and acted in compliance with the OHS Act by triggering the OHS Act work refusal process.

If a worker believes they have been subject to a reprisal or suffered a negative consequence due to their action to refuse work from their employer/supervisor, the worker can file a complaint with the Ontario Labour Relations Board (OLRB). If the worker is a member of a union, they may elect to file a grievance and pursue the matter under the Collective Agreement instead. Either way, the onus is on the employer/supervisor to demonstrate or prove that they did not act contrary to the OHS Act. For more information, refer to the Ontario government webpage, [Reprisals against Workers by Employers](#).

For additional information about worker rights, see [OHS Act sections 22, 43, and 50](#).

## Communicating and Triggering the Work Refusal Process

Employers and workers need to be aware that when a worker refuses work, they are not required to use exact phrases, such as:

***“I refuse” or “I’m refusing this work”***

Workers can use phrases such as:

***“I’m not going to do that” or “I’m afraid and not going in there”***

It is important to note that:

- It is not enough for the worker to state that they are refusing to work or do a particular task. The worker must cease or discontinue performing the work or task to trigger the work refusal process.
- If a worker is communicating that they will not perform work and is linking the issue to workplace violence, the employer/supervisor must recognize that it is a work refusal and that the OHS Act process has been triggered.

The onus is on the employer/supervisor to clarify that:

1. The worker is actually refusing the work; and
2. The refusal is for health and safety reasons, such as workplace violence.

## Examples of Work Refusals

The following table provides examples of work refusals which may occur in different healthcare settings.

Sector	Work Refusal
<b>Home and Community Care</b>	A worker refuses work after entering a home where an agitated client threatens to strike them with an object. The worker believes the client is not stable and if the worker remains close to the client, they will be harmed.
<b>Long-Term Care</b>	A new worker refuses to work on a secure dementia care unit where the worker has been assigned residents demonstrating high levels of responsive behaviours. The worker believes the work is unsafe because they have not received the training needed to do the job safely (e.g., crisis intervention, de-escalation and self-protection techniques, etc.) and behavioural control measures have not been identified and communicated.
<b>Hospital</b>	A nurse on a secure unit refuses work because the worker believes it is unsafe and likely to endanger them. The nurse, in addition to her other patient load, is assigned two patients who have a long history of violence and both are demonstrating high risk behaviours during the shift. The psychiatrist has ordered security 24/7 and a means for the nurse to summon additional assistance if violence occurs. The nurse has not been provided with any means to summon immediate assistance as required by the OHS and the security team is busy and can't send someone until the next shift.

# Limitations to Work Refusals

## Limited Settings

There are specific **healthcare work settings** where workers have a limited right to refuse work, including:

- Hospitals
- Long-term care homes
- Psychiatric institutions
- Mental health centres
- Rehabilitation facilities
- Residential group homes
- Facilities or homes for persons with behavioural or emotional problems, or a physical, mental or developmental disability
- Ambulance services
- First aid clinics or stations
- Licensed labs or labs operated by the Crown or licensed under the [Laboratory and Specimen Collection Centre Licensing Act](#)
- Sanatoriums
- Laundry, food service, power plant or technical service or facilities used in conjunction with one of the facilities in listed above

**NOTE:** *Workers working in healthcare settings not listed above do not have any limitations on their right to refuse work. For example, some community healthcare organizations do not fall under work settings where workers have a limited right to refuse work. Workers must be mindful, however, of the work refusal expectations of their professional colleges (see below for additional information).*

## Limited Circumstances

There are two **circumstances** where workers in the settings listed above are not permitted to refuse work. They are:

1. When a circumstance is inherent in the worker's work or is a normal condition of the worker's employment; or
2. When the worker's refusal to work would directly endanger the life, health or safety of another person.

If at least one limiting circumstance exists, the worker cannot refuse work as outlined by the OHSA, unless the worker refuses on the basis that they are not provided with the necessary protection to perform their work safely (as outlined in the list below). For instance, workers in healthcare settings commonly care for individuals who demonstrate aggressive or responsive behaviours. This can be considered inherent in the job. What is **not** inherent in the job are working conditions where violence occurs or is likely to occur without reasonable workplace violence policies, procedures, and control measures that protect the worker given the circumstance, such as:

- instruction, education, and training
- safety plan
- emergency procedures
- safe staffing measures

- security guards and/or workers trained to perform security responsibilities
- means of summoning immediate assistance when violence occurs or is likely to occur

When workplace violence policies, procedures, and control measures are not in place, the limited circumstances in the OHS Act may not apply and a worker may be able to refuse unsafe work.

It is up to the MLTSD to decide if the work refused is inherent in the worker's work per the limited circumstance noted above, not the employer. At all times, the employer and supervisor must take every precaution reasonable to protect the worker.

For additional information about limitations to work refusals, see [OHS Act sections 43](#).

## Regulated Healthcare Professionals

Many healthcare professionals (e.g., physicians, nurse practitioners, registered nurses, registered practical nurses, occupational therapists or physiotherapists) are regulated by their respective colleges who set standards for discontinuation of care, including situations where work is refused. Critical appraisal of the factors in any situation is the foundation of clinical decision-making and professional judgment. This means that regulated professionals must abide by and make decisions based on the practice standards set by their college. For instance, a registered nurse who refuses unsafe work that causes the discontinuation of nursing services not within the guidelines, and results in abandonment of a care recipient, may be found guilty of professional misconduct (College of Nurses of Ontario, 2017).

Nonetheless, **no worker should be expected to subject themselves to harm**. It is critical that regulated healthcare professionals and employers understand:

1. The applicable college standards; and
2. That workers exercising their right to refuse work may create an ethical dilemma between refusing unsafe work for their own safety and discontinuing to provide care to the care recipient.

See additional resources on this topic list at the end of the toolkit or refer to your College for guidance.

## Work Refusal Process and Stages

The stages of a work refusal apply to all those who may be involved in the process—workers, supervisors, employers, and JHSC/HSR or other workers representing the worker participating in the investigation of the work refusal. It is important that these parties receive education and training on the right to refuse unsafe work, the process to be followed, and their roles and responsibilities.

Sometimes the work refusal process is presented as two stages although they are not labelled as stages in the OHSA.



**For a work refusal process to be triggered, the worker must refuse, not do the work or task, AND report to a supervisor.**

### Stage 1

Stage 1 of a work refusal is the “initial investigation” when the worker, employer/supervisor, and, if there is such, a worker safety representative (JHSC/HSR or other person as noted below) immediately work together to understand the reason for the work refusal and address the issue by implementing permanent or interim control measures to ensure the work is safe from the worker’s perspective. There are many instances when the work refusal ends after Stage 1 without requiring the need for Stage 2. If the issue is not resolved in Stage 1, the worker can continue to refuse, moving the work refusal process to Stage 2.

The following happens in Stage 1:

#### **Worker Believes Work is Unsafe**

A worker believes their work or a particular task may endanger them. The worker stops or does not do the work or task based on this belief.

**Note:** *Although the worker has stopped doing the work or task, this is not considered a ‘Work Stoppage’.* [Work Stoppage is a different process under the OHSA.](#)

#### **Worker Reports Refusal to Work**

The worker reports immediately to their employer/supervisor that he/she will not do the work or task and explains why.

The worker remains in a safe place that is as near as is reasonably possible to the workstation to be available to participate in the investigation.

The employer/supervisor immediately makes arrangements, if there is such, for a **worker safety representative** such as a JHSC worker member/HSR or another worker who because of knowledge, experience and training is selected by the union that represents the worker, or if there is no union, is selected by the workers to represent them to attend without delay.

The employer/supervisor may wish to use a work refusal documentation form (per the example provided in Appendix C) to document the work refusal.

#### **Employer Investigates**

The employer/supervisor investigates “forthwith” (immediately) in the presence of the worker and the worker safety representative as described above.

**Note:** *The initial investigation must be completed forthwith so the worker is available and on duty to participate.*

## Outcome

Based on the investigation and steps taken by the employer/supervisor to resolve the problem, either the:

- a. **Issue is resolved.** The worker goes back to work.
- b. **Issue is not resolved.** Proceed to Stage 2.

**Note:** *It is good practice in situations where workers are working in clients' homes, for the union in that workplace to select worker representatives who can be made available and are able to attend work refusals in person without delay. Where there is no union, workers should select representatives accordingly. It is a good practice in home care workplaces, for employers/supervisors to request a list of those pre-selected representatives who can be called upon to attend work refusals in person without delay.*

## Stage 2

Stage 2 of a work refusal occurs if, following the employer's/supervisor's investigation or steps taken to deal with the circumstances that caused the worker to refuse to work in Stage 1, the worker has reasonable grounds to believe that the work continues to be unsafe. The onus moves from reasonable belief to reasonable grounds because the situation has been examined by the parties in the initial investigation or Stage 1 as described above.

Stage 2 may continue as follows:

### Worker Continues Refusal to Work

The worker continues to refuse work because they believe, with reasonable grounds, that workplace violence continues to likely endanger them.

The worker, worker safety representative, or employer/supervisor calls the MLTSD and explains the circumstance: a worker has refused work; the employer investigated; the worker continues to refuse work based on their belief that the work continues to be unsafe.

Pending the investigation and decision of the MLTSD inspector, the worker remains, during their normal working hours, in a safe place, is assigned by the employer/supervisor to other safe work, or is given other directions and is available to participate in the investigation.

### MLTSD Investigates

A MLTSD inspector will connect with the organization to investigate in consultation with the worker, worker safety representative as described above, and employer/supervisor.

See below section *Situations that May Arise Questions & Answers* outlining what happens if the Stage 2 investigation has not been completed by the end of the worker's regular working hours.

### MLTSD Decision

The MLTSD inspector gives a written decision to the worker, worker safety representative as described above, and the employer/supervisor about whether the workplace violence circumstance is likely to endanger the worker or another person. The employer shall provide a copy of the written decision to the JHSC/HSR and post it in a place where other workers can see it.

The written decision provided by the MLTSD inspector typically includes any corrective actions, sometimes with time-based orders, to implement the corrective actions that the employer/supervisor are required to implement.

#### DID YOU KNOW

Stage 2 of a work refusal only occurs if Stage 1 has been unsuccessful and the worker has reasonable grounds for believing that the work continues to be unsafe.

If there are time-based orders, the inspector gives the employer a “Notice of Compliance Form” that should be returned to the MLTSD inspector with details of compliance prior to the time-based order date(s). The Notice of Compliance Form has space for the employer to provide (or attach) information about the steps they will take to comply, and the form has space for both the employer and the worker safety representative signatures.

If, after reviewing the Notice of Compliance Form completed by the employer, the worker safety representative does not agree that sufficient steps have been taken, the worker safety representative shall indicate that they disagree and note or attach details of their disagreement. The MLTSD inspector will likely then come back to the workplace and make a decision on compliance after talking to both parties. These documents (the completed Notice of Compliance Form and additional documentation/attachments) shall also be posted in the workplace where other workers can see them.

### **Employer Corrective Action**

If required or ordered by the MLTSD inspector, the employer/supervisor makes corrective changes. Once the changes are made, the worker returns to work or the particular task that was refused.

**NOTE:** *The worker may appeal the decision, however, if the MLTSD inspector decides that the work is not likely to endanger anyone, the refusing worker will normally return to work as soon as practicable. If workplace violence risks are identified during the investigation and control measures and procedures have been developed and implemented, the employer/supervisor should also conduct a reassessment of workplace violence risks to ensure that policies and procedures continue to protect workers.*

\*While awaiting decision from the Stage 2 MLTSD investigation:

- The worker may be offered other work if it doesn't conflict with a collective agreement
- Refused work may be offered to another worker, but the employer must inform the new worker that the offered work is the subject of a work refusal and the reasons for the refusal. This must be done in the presence of:
  - a JHSC worker member/HSR, or
  - a worker because of his/her knowledge, experience and training selected by the union to represent the refusing worker. If there is no union, a worker safety representative chosen by workers to represent them.

For additional information about the work refusal process and stages and conducting a reassessment of risks, see [OHSA sections 43 and 32.0.3](#).

Also see the Ontario MLTSD [Procedure for a Work Refusal](#) and the [Ontario Health Care Health and Safety Committee Under Section 21 of the OHSa Guidance Note for Workplace Parties #7 - Right to Refuse Unsafe Work](#) for additional guidance.

Guidance on investigation of workplace violence, which can be used in a work refusal investigation, is located in the [PSHSA Incident Reporting and Investigation Toolkit](#).

## Workplace Safety and Work Refusals

Making sure workplaces are safe can help reduce the occurrence of work refusals. Too many work refusals within an organization may be an indication that:

- The employer/supervisor has not taken all precautions reasonable in the circumstances for the protection of workers
- Workplace parties do not understand their legislated roles and responsibilities
- Workplace parties do not understand the importance of a strong internal responsibility system (IRS) where everyone works together proactively to protect the health and safety of all workers

Although work refusals are sometimes unavoidable and necessary, they are not meant to be the first line of defense against workplace violence hazards. Employers and supervisors are obligated to take all precautions reasonable in the circumstances to protect workers. This means reassessing the risks of violence whenever incidents occur or there are changes within the workplace. Measures and procedures to control risks need to be reviewed regularly to ensure that they continue to protect workers. Workers have roles and responsibilities as well. Under the OHSA, a worker must report hazards to the supervisor or employer so they are aware of hazards and have an opportunity to implement controls. Workers may also go to their JHSC/HSR to have their health and safety concerns heard or utilize a grievance process if they are a unionized worker to deal with disputes or to address concerns.

JHSC/HSRs have roles and responsibilities to identify sources of harm and to make recommendations to improve health and safety. The JHSC/HSR can make recommendations to the employer accordingly.

Many of these processes take time. A worker may be facing immediate danger and the work refusal provision can therefore provide that immediate protection.

### Policy, Procedures, and Documentation

The OHSA provides detailed steps about how work refusals must be addressed. Employers should have a work refusal policy and procedures that are developed for their workplace in consultation with the JHSC/HSR. Workplace policies should include the requirement to train managers/supervisors, workers, and the JHSC/HSR.

For workplaces covered under the [Health Care and Residential Facilities Regulation](#), measures and procedures need to be in writing and the JHSC/HSR needs to be consulted on the measures and procedures and the training and education programs for those measures and procedures.

Employers should also develop methods of documenting and communicating the work refusal. Methods for obtaining safety representatives as described above should also be clear. The supervisor involved in the work refusal investigation should document the occurrence and details.

See Appendix B: Work Refusal Sample Policy and Appendix C: Work Refusal Documentation Form for sample documents.

### Competent Supervisor

Under the OHSA, employers have a duty to appoint a competent person as a supervisor who has charge over a workplace or authority over a worker and who is responsible for responding to and correcting hazards that risk worker safety. This includes all management or anyone acting in the capacity of or appointed as a supervisor.

Appointed supervisors must have the knowledge, skills, training, and experience to ensure worker safety. They must be familiar with the OHSA and regulations that pertain to the areas of work under their authority, and they must clearly understand their legal occupational health and safety roles and responsibilities. They must also know the legislative and organizational processes for work refusals. In addition, supervisors must know about hazards, whether potential or actual, that their workers are or may be exposed to and how to control them. This applies to the hazard of workplace violence and its prevention.

Competent supervisors, with knowledge of prevention, can proactively identify, assess, and control workplace violence hazards and potentially reduce the occurrence of workplace violence-related work refusals in areas under their authority.

Employers may assist their supervisors in being competent by having them complete ‘competent supervisor’ training sometimes called health and safety training for leaders or managers. The training should be relevant to the sector in which they work (e.g., healthcare). It is important that employers maintain documentation of competent supervisor training as a best practice and in the event the MLTSD requests evidence of supervisor competency. This training is above and beyond the legislated and mandatory *Occupational Health and Safety Supervisor Awareness* training which is short and introductory in nature.

Additional MLTSD information about competent supervisors can be found [here](#).

For more information regarding competent supervisor training and additional health and safety training, refer to the [PSHSA Health and Safety for Leaders](#), [PSHSA Health and Safety for Managers and Supervisors](#) and [PSHSA Health](#) and [PSHSA Health and Safety for Board Members](#).

## Effective Internal Responsibility System

Employers and supervisors have the most responsibility under the OHSA and must understand the requirement to be duly diligent in protecting workers. Employers and supervisors must take ‘every precaution reasonable for the protection of a worker’ and this also applies to situations where circumstances exist limiting a healthcare worker’s right to refuse.

Taking every precaution reasonable for the hazard of workplace violence may include the following, but is not limited to ensuring:

- Workplace violence hazards are identified, controlled, and communicated to workers
- Workplace violence policies, procedures, and control measures are in place, are consistently applied to protect workers, and are evaluated for success
- Equipment to do the job safely is available and in good condition, e.g., personal safety response system (PSRS) – also see the [PSHSA PSRS Toolkit](#)
- Safe staffing practices are in place
- Security guards are hired, trained, available, and used to their full capacity as protectors of workers and others – also see [PSHSA Security Toolkit](#)
- Individual care recipient risk assessment procedures are in place and implemented – also see [PSHSA ICRA Toolkit](#)
- Communication systems are in place to (a) alert workers of persons who pose a risk of violence, including a history of violent behaviour, and (b) include behaviour care plans with information about, for example, triggers, observed behaviours, and safety measures in place to protect workers – also see [PSHSA Communicating the Risk of Violence Toolkit](#)
- Inspections and risk assessments are completed of the workplace that include the hazard of workplace violence
- Workplace violence incident reports and work refusals are thoroughly investigated – also see [PSHSA Incident Reporting and Investigation Toolkit](#)
- Workers are provided with health and safety instruction, training, and education including workplace violence prevention (e.g., crisis intervention, de-escalation, self-protection/defence), worker rights, etc. – also see [Training Matrix User Guide](#)
- Workers are provided adequate supervision to ensure safe work practices and safety rule enforcement

Employers and supervisors need to be able to prove their due diligence and demonstrate that they have taken every precaution reasonable in the circumstances for worker protection (e.g., maintain documentation, training records, and safety communications).

The OHSA is based on the concept of the [internal responsibility system \(IRS\)](#) where everyone shares the responsibility for health and safety—corresponding with the extent of their authority—while remembering the employer has ultimate responsibility. Where there is a strong IRS, workers tend to report hazards promptly to their supervisor/employer. This allows the employer/supervisor to investigate hazards and incidents, and implement preventive steps. Where the employer/supervisor are unable to resolve hazards or health and safety issues in the areas under their authority, they must escalate the issue to the next level of management that can resolve it.

It is important that workplace parties know and understand their roles and responsibilities under the OHSA so that workers are protected from harm.

For additional information about the legislated duties of the employer, supervisor and worker, see [OHSA sections 25 and 27](#).

## Positive Safety Culture

Knowing one's legal rights and occupational health and safety responsibilities is not enough to ensure that the necessary health and safety changes occur or are adopted within an organization. A positive safety culture can help create positive change. Workplace culture is defined as the set of shared values (things that are important to an organization); guiding beliefs (truths, faith or confidence in); understandings; and ways of thinking that are shared by the workplace parties and taught to newly hired workers as the right or correct way of doing things (Rundall et al., 1998). Culture affects workplace attitudes and behaviours towards safety (Cooper, 2000).

A positive safety culture that creates positive change and behaviours requires:

- strong leadership and vision
- empowerment of managers, supervisors, and workers to be heard and participate in making positive change
- collaborative and cooperative teamwork
- a shared sense of responsibility among management and workers
- effective communication
- effective change management processes
- trust and respect

All workplace parties can do their part to meet their legal duties and create a positive safety culture for health and safety and workplace violence prevention. From a positive safety culture lens, there is an opportunity for a paradigm shift or change in the way work refusals are viewed by the employer, supervisor, and worker. **Work refusals can be seen as opportunities for learning, quality improvement, and a sincere desire to protect valued workers from harm.**

## Successful Work Refusals – Protecting Workers

For successful work refusal procedure implementation and outcomes, the elements: *motivation, competence, and healthy workplace environment*, must be in place and work well together. If one element is weak, the work refusal process may not be successful.

It is recommended that leaders assess their workplace’s motivation, competence, and workplace environment. Understanding the status of these elements will contribute to the development of an appropriate action plan, thereby optimizing the workplace’s health and safety performance and outcomes, including those related to work refusals.

Refer to the below table for definitions and sample questions that leaders should ask themselves and others and seek the truthful answers to.

Element	Definition	Assessment Questions
<b>Motivation</b>	Compliance with OHSA and the moral duty to protect workers from harm	Does everyone know they must comply with the OHSA? For example, workers’ rights, work refusal process  Does everyone believe protecting workers is a moral duty?
<b>Competence</b>	OHS knowledge, skills, and abilities (KSA) regarding employer duties; supervisor competency; worker rights; and work refusal process and steps	Does everyone understand worker rights and the work refusal process including their roles and responsibilities?  Has everyone received the necessary training?
<b>Workplace Environment</b>	Strong workplace IRS and positive safety culture	Does everyone know and share the responsibility for health and safety?  Does everyone strive to create a positive safety culture?

To help employers identify any work refusal gaps see Appendix D: ‘Check My Workplace Violence Work Refusal Knowledge’ Checklists.

# Work Refusal Healthcare Scenarios

The following scenarios provided example work refusals in hospital, long-term care, and home and community care settings.

## Work Refusal in a Hospital Scenario

### Scenario details:

- A registered nurse (worker) in an emergency department refuses work because a psychotic patient tried to punch him; he refuses by telling his supervisor *"I cannot care for that patient because they tried to punch me"*.
- The work refusal process begins.
- The worker continues to care for his other patients on the unit while refusing to care for this one.
- The supervisor calls a worker safety representative (as explained in the Work Refusal Process and Stages section above) to attend without delay – in this case a JHSC worker co-chair member of the hospital's JHSC is called and goes to the hospital unit.
- The supervisor investigates the work refusal with the worker and worker safety representative.
- The supervisor determines appropriate control measures to protect the worker in consultation with the worker and worker safety representative.
- The worker and worker safety representative agree to the control measures and the worker resumes working (caring for the patient).
- The agreed-on example control measures (not an exhaustive list of all possible control measures) are implemented as follows:
  - The worker updates the patient's individual client risk assessment (ICRA) and the patient's behaviors, triggers, and control measures to protect workers are flagged per the hospital's risk communication policy
  - The worker administers anti-psychotic medications to the patient with the assistance of a security guard who holds limbs (and who could restrain the patient if needed) and uses personal protective equipment, such as Leather Kevlar gloves and a face and spit shield, and asks the patient to lay prone (on their back) to decrease the risk of violence
  - 24/7 security is placed on the unit and the worker is asked to contact security for backup before any interaction with the patient
- The work refusal is resolved.
- The supervisor documents the work refusal for reporting and ongoing quality improvement purposes.

### Concepts to note:

- Example of how a work refusal in a hospital setting may be investigated and resolved in Stage 1 with the supervisor, worker, and worker safety representative.
- That the work refusal did not violate the College of Nurses of Ontario Practice Guideline for Refusing Assignments and Discontinuing Nursing Services as the delay in care provided to the patient did not impact the patient's health outcomes.

## Work Refusal in a Long-Term Care Setting

### Scenario details:

- A Personal Support Worker (worker) in a long-term care home refuses to complete a 'task' to help feed a resident because the resident has a history of striking out, including striking others with objects, and just tried to hit the worker; the worker refuses by telling her supervisor *"I cannot feed that resident because he tried to hit me and I think he is going to try to hit me again"*.
- The work refusal process begins.
- The worker continues to work, but does not perform the task of feeding the resident.
- The supervisor does not know the process for a work refusal and believes that the worker's task to feed the resident is part of their job; the supervisor says to the worker "there is nothing that can be done and you need to feed the resident". The supervisor does not initiate an investigation.
- The worker is unsure what to do next so calls a worker safety representative for direction, in this case, a member of the JHSC and worker's union, and explains what is happening.
- The worker safety representative contacts the supervisor and informs them that they need to conduct an investigation as is required in the OHSA.
- The supervisor then conducts an investigation of the work refusal with the worker and worker safety representative (as the worker safety representative has now arrived on site) and suggests control measures.
- The investigation does not resolve the work refusal because the supervisor, worker, and worker safety representative do not agree on the suggested control measures; the worker continues to believe that the task of feeding the resident is unsafe and they do not perform the task; they also determine that the delay does not impact the care or safety of the resident.
- The MLTSD is called by the worker safety representative, and on the phone, the MLTSD verifies that the Stage 1 investigation was completed and that the work refusal limitations of the OHSA do not apply in this situation as:
  - The work refusal does not directly endanger the life, health, or safety of the resident
  - The work is being refused on the basis that the worker has not been provided with the necessary protection to perform her work safely
- The Stage 2 work refusal process is initiated.
- The MLTSD inspector arrives at the long-term care home and investigates the work refusal with the supervisor, worker, and worker safety representative per the Stage 2 process.
- The MLTSD inspector provides a written decision to the worker, worker safety representative, and supervisor based on the investigation and states **that the task of feeding the resident continues to be unsafe and that additional control measures need to be put into place to protect the worker.**
- The written decision is signed by the worker safety representative and supervisor.
- The supervisor implements control measures to protect the worker, which may include:
  - Having a discussion with the resident's family who informs them that the resident calms down when holding a rolled-up towel or their own (soft) cutlery – so they implement this measure and provide the resident with a rolled-up towel
  - Replacing the metal utensils with paper utensils in the long-term care home to reduce the risk of the resident taking the metal utensils from the worker (or another resident) and using them to strike out
  - Talking to a behavioural specialist for possible additional controls
  - Updating the resident's behaviour care plan
  - Providing workers with training in self-protection, self-defense, and de-escalation
  - Providing additional staff supports such as personal protective equipment

- The worker performs the task and feeds the resident once the control measures are put into place.
- The work refusal is resolved.
- The supervisor documents the work refusal for reporting and ongoing quality improvement purposes.

**Concepts to note:**

- Example of how a work refusal in a long-term care home may be conducted when the Stage 2 process is required.
- The reasons that the OSHA work refusal limitations did not apply in this scenario.
- The importance of having a competent supervisor that is knowledgeable and trained in the work refusal process.

## Work Refusal in a Home and Community Care Setting

**Scenario details:**

- A Registered Practical Nurse (worker) is scheduled to conduct a home visit with a new client, but refuses to enter the client's home as she heard from a colleague that the client may be aggressive and she feels unsafe; she refuses by calling her supervisor from her car and says *"I've heard that my next client is aggressive and I don't feel safe entering the client's home"*.
- The work refusal process begins.
- The supervisor calls a worker safety representative (as explained in the Work Refusal Process and Stages section above) to attend without delay – in this case a representative of the worker's union; the supervisor suggests meeting at a coffee shop that is nearby to the client's home.
- The supervisor, worker, and worker safety representative meet at the suggested coffee shop and the supervisor conducts the investigation (as outlined in the Work Refusal Process and Stages section above).
- The supervisor determines appropriate control measures to protect the worker in consultation with the worker and worker safety representative.
- The worker and worker safety representative agree to the control measures and the worker agrees to enter the client's home and provide the required care.
- The agreed-on control measures are implemented as follows:
  - The supervisor contacts the hospital where the client was recently discharged and asks for information about the client's risk of violent behaviour
  - They make plans so that the client's daughter is present during the visit
  - The supervisor attends the visit with the worker and completes an Individual Client Risk Assessment (ICRA) so that more information is known about the client's risk of violent behaviour
  - During the visit to complete the ICRA, both the supervisor and the worker each have personal alarm devices that enable two-way communication between the person summoning immediate assistance and emergency personnel (e.g., 911) – that way either of them can contact 911 for emergency assistance if needed
  - The supervisor develops a behaviour care plan for the client with additional controls based on the ICRA results (note that the additional controls may include two workers attending each appointment with the client or hiring a police officer to attend each appointment with the worker)
- The work refusal is resolved.
- The supervisor documents the work refusal for reporting and ongoing quality improvement purposes.

**Concepts to note:**

- Example of how a work refusal in a community setting may be investigated and resolved in Stage 1 with the supervisor, worker, and worker safety representative - including how the three parties may meet at a safe location close to the work refusal site to conduct the investigation.
- That the worker did not enter the client's home when they felt unsafe; note that if the worker had entered the client's home and felt unsafe when in the home, they should leave and immediately contact their supervisor.

Also see Appendix E: Work Refusal Process Checklist that shows an example of the checklist completed using the above scenario.

## Situations that May Arise Questions & Answers

Presented below are answers to questions based on situations that may arise when there is a work refusal due to workplace violence.

### **Can workers refuse work or refuse to do particular work *collectively or as a group*?**

No. Work refusals are an **individual worker's right**; therefore, a group of workers cannot refuse work or refuse to do particular work as a collective. Even though several workers may come to the same conclusion that work or a specific task is unsafe, each worker must individually refuse the work or task to their supervisor/employer.

### **Can a worker refuse work or refuse to do particular work due to workplace violence if they believe the work is unsafe for another worker?**

No. A worker cannot refuse work they believe to endanger another worker if the endangerment is because of workplace violence. However, a worker can refuse work they believe may endanger another worker if the endangerment is due to other reasons as outlined in the OHS Act.

### **When a worker refuses work, should the supervisor start a work stoppage process?**

No. The worker is refusing work under the OHS Act section 43(3)(b.1). While the process of a Bilateral Work Stoppage under OHS Act section 45 is similar to a Work Refusal, a Work Stoppage is triggered by a certified member (a JHSC committee member who has received certification as per OHS Act) whereas a work refusal is triggered by a worker.

### **Does a worker have to report a work refusal in writing?**

No. Employers may ask workers to complete a written form when refusing work as part of their organizational policy and procedure, however, this is not a legal requirement under the OHS Act.

### **What happens when a worker refuses work but the supervisor doesn't remember the work refusal process?**

By law, a competent supervisor must implement the work refusal process. If the supervisor doesn't know what to do, they should immediately call in another supervisor who knows the work refusal process. Once the work refusal issue has been resolved, the supervisor must be retrained to be considered a competent supervisor, including being trained in work refusals.

### **Can a supervisor reassign work to another worker while that work has been refused and an investigation is underway?**

Yes. The work can be reassigned, but only after the Stage 1 investigation process is complete **and only** if particular OHS Act provisions are met. After the Stage 1 investigation, the supervisor can **only** assign the work or task (such as care for a care recipient) to another worker if

- It is done in the presence of a worker safety representative, **and**
- the worker has been advised of the other worker's refusal and reasons for refusal in the presence of a worker safety representative.

### **If the OHS Act provisions as outlined in the question/answer above are met and the supervisor offers the refused work to another worker – and the other worker accepts the work – is the work refusal process finished?**

No. If the work is offered to another worker and the other worker accepts the work, the work refusal process and investigation continues for the refusing worker, even if the work is now completed.

### **Can a worker refuse a particular task while continuing with their other tasks or work?**

Yes. A worker can refuse to do a particular task (such as caring for one patient on a unit in a hospital) while continuing to perform their other work tasks or duties.

### **Does an employer or supervisor have to call a worker safety representative in from home to attend a work refusal investigation?**

It may be necessary to call a worker safety representative in from home as the initial investigation must occur forthwith (immediately). If no worker JHSC representative is available to be the worker safety representative, then the union (if there is one) should select a person who can be made available quickly. If the refusal is not resolved in Stage 1 and proceeds to Stage 2, then the worker JHSC representative may have more time to attend and even take over from another worker safety representative at later stages.

To avoid confusion, the worker members of the JHSC may want to develop a call-list of worker safety representatives in a pre-determined call order.

### **In work refusal situations where workers are represented by more than one union, which union gets called in to attend the investigation?**

The worker safety representative of the refusing worker's union should be called first. If that person is not available, then the union selects a person with knowledge, experience and training to represent the worker. Again, it is recommended that the JHSC worker members develop a call-list of worker safety representatives that should be called in a pre-determined order.

### **What happens when a worker's shift is ending and an investigation hasn't been completed?**

The worker must be made available to participate in the investigation if the worker is on duty. Since the initial investigation is conducted forthwith, the worker is nearly always on duty to participate during the Stage 1 investigation. After all, the work refusal starts while the worker is at work.

If the work refusal is not resolved immediately and must move to the Stage 2 investigation where an MLTSD inspector is required, depending on how long the process takes, the worker may still be on duty and available to participate when the inspector arrives. In that case, the worker must be made available. The OHSA states that the inspector shall consult with the employer, the worker, and if such, a worker safety representative. Therefore, even off-duty, the worker has the right to participate in the investigation if they wish, although there is no requirement that they be paid in addition to their regular shift pay. Note also that the refusing worker is always entitled to receive a copy of the inspector's written decision.

*Most important to note is that the work refusal is not over if the worker goes off duty and the investigation is to continue.*

As best practice, in work refusal situations, the workplace parties (employer/supervisor, worker, worker safety representative, MLTSD inspector if applicable) should discuss the timelines that arise in each circumstance and make best efforts to include all parties, including the worker, in the investigation. It is important to hear the worker's rationale and their explanation of "reasonable grounds" to inform the investigation.

To include the worker in the investigation, agreements can be reached for the worker to, for example, remain after their shift, remain and be paid, leave and be contacted by phone, make other arrangements to speak with the MLTSD inspector, return when the MLTSD inspector arrives, defer to the worker safety representative to explain the issues, or reschedule the investigation to take place at the next reasonable time (such as when the MLTSD inspector is available to attend) when the worker may also be back on shift.

**What if an employer’s work refusal policy states that additional people need to attend a work refusal investigation, such as an employer’s occupational health and safety specialist?**

Employers may request (or include in their workplace policies or procedures) that additional people attend a work refusal investigation. This is acceptable; however, it is not a requirement of the OHSA and work refusal investigations should not be delayed while waiting for additional people to arrive. In addition, the presence of others does not replace the attendance of the parties specified in the OHSA (and noted above) such as the worker safety representative.

**How does a worker know if a work refusal may result in a complaint of professional abandonment?**

Under the OHSA section, a worker has a right to refuse what they believe to be unsafe work. Workers should also understand their professional obligations to provide care as outlined by their profession’s College standards and guidance, for example, the standards outlined by the College of Nurses of Ontario. While refusing work believed to be unsafe is legal under OHSA, a worker may be subject to disciplinary action under their College standards and guidelines if it is not conducted properly, however, there are ways to ensure the standards and guidelines are met. Refer to the end of this toolkit for additional resources.

# Appendix A: Work Refusal Flow Chart

## Purpose of this Tool

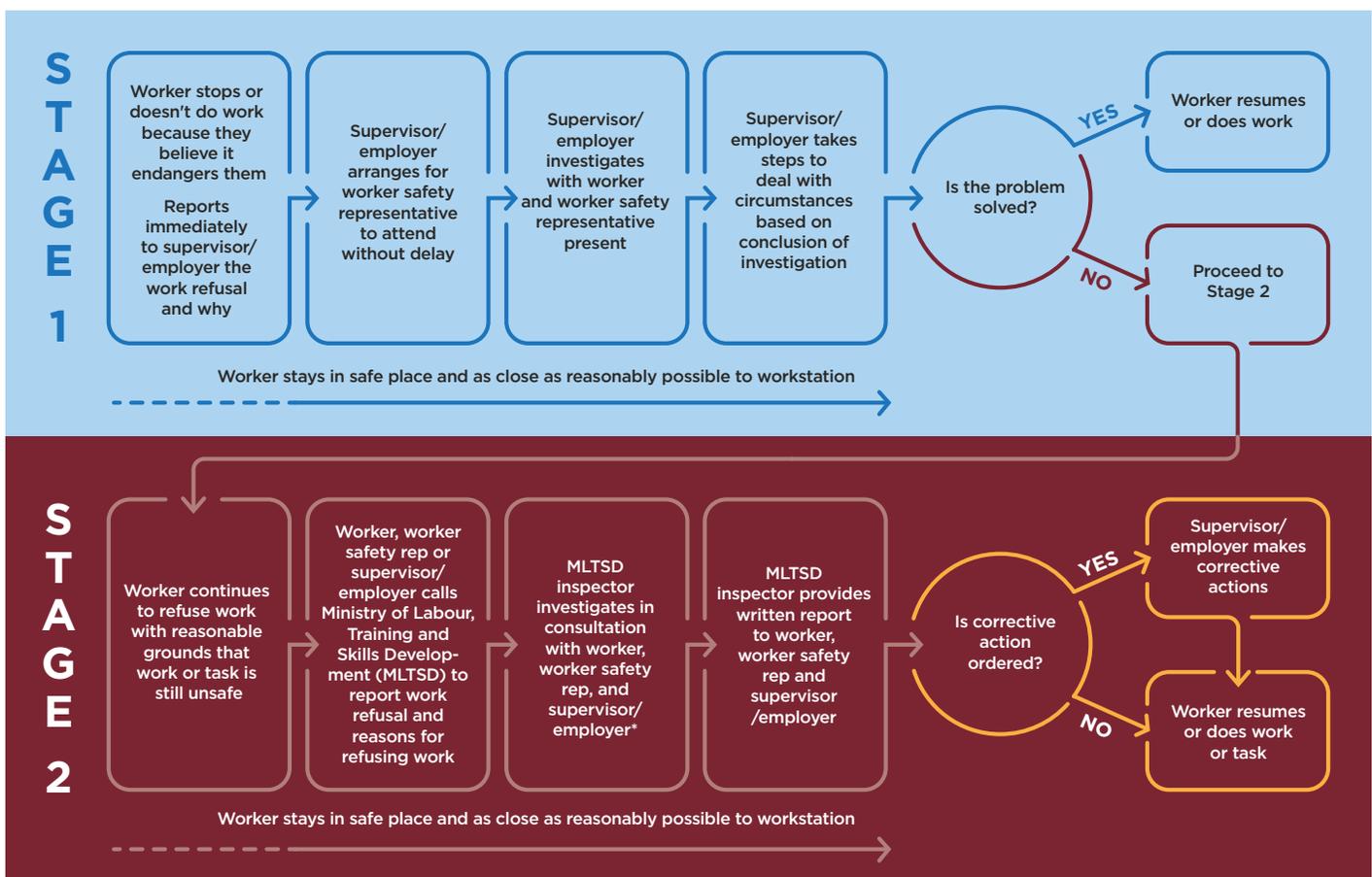
The purpose of this tool is to outline the step-by-step procedures for refusing unsafe work due to workplace violence as per the Occupational Health and Safety Act (OHS) section 43.

## Who Uses this Tool

All workplace parties such as: Employers, Supervisors, Workers, Joint Health and Safety Committee (JHSC)/Health and Safety Representative (HSR), and Unions.

## How to Use this Tool

This tool can be used in a variety of ways: posted in areas visible to workers such as nursing stations, on the JHSC notice board, hardcopies available to workers (perhaps printed as small pocket cards), and in training programs.



\*While awaiting decision from the Ministry of Labour, Training and Skills Development investigation:

- The worker may be offered other work if it doesn't conflict with a collective agreement
- Refused work may be offered to another worker, but the employer must inform the new worker that the offered work is the subject of a work refusal and the reasons for the refusal. This must be done in the presence of:
  - a JHSC worker member/HSR, or
  - a worker because of his/her knowledge, experience and training selected by the union to represent the refusing worker. If there is no union, a worker safety representative chosen by workers to represent them.

## Appendix B: Work Refusal Sample Policy

### Purpose of this Tool

The purpose of this tool is to provide hospital, long-term care, and home and community care workplaces with a template of a Work Refusal Policy (including when work is refused due to workplace violence) to be put in place immediately where one does not exist, or to be updated to ensure the policy includes information about workplace violence.

### Who Uses this Tool

Any workplace party involved in Work Refusal policy and procedure development, revisions, and evaluation; and all workers to whom the policy pertains, are required to read, understand, and implement the policy and its procedures as required.

### How to Use this Tool

This is an example and template of a policy. Use whole parts, revise, or customize as required to meet your workplace needs. The policy must be developed in consultation with the Joint Health and Safety Committee or Health and Safety Representative. Revisions and customization should be done with careful consideration. Significant changes or removal of important sections may negatively impact worker safety.

### Work Refusal Policy for Hospital, Long-Term Care, and Home and Community Care Settings

<b>MANUAL:</b> Health and Safety	<b>SUBJECT:</b> Work Refusal	<b>POLICY NUMBER:</b>
<b>EFFECTIVE DATE:</b>	<b>REVISED DATE:</b>	<b>NEXT REVIEW DATE:</b>
<b>POLICY REVIEWERS:</b>		
<b>APPROVED BY:</b>		
<b>SENIOR LEADERSHIP SIGNATURE (e.g., CEO or Executive Director):</b>	<b>JHSC/HSR SIGNATURE:</b>	

### Preamble

The Occupational Health and Safety Act (OSHA) provides workers the right to refuse work that they have reason to 'believe' to be unsafe under certain situations. See below.

### **OHSA section 43(3)**

A worker may refuse to work or do particular work where he or she had reason to **believe** that:

- Any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker,
- The physical condition of the workplace or part thereof in which he or she works to be likely to endanger himself or herself,
- Workplace violence is likely to endanger himself or herself, or
- Any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such convention is likely to endanger himself, herself or another worker.

There are specific work settings where workers have a limited right to refuse in certain circumstances (OHSA section 43(2)). Some work settings apply to the healthcare sector as outlined below.

### **OHSA section 43(2)**

A person employed in the operation of,

- i a hospital, sanatorium, long-term care home, psychiatric institution, mental health centre or rehabilitation facility,
- ii a residential group home or other facility for persons with behavioural or emotional problems or a physical, mental or developmental disability,
- iii an ambulance service or a first aid clinic or station,
- iv a laboratory operated by the Crown or licensed under the [Laboratory and Specimen Collection Centre Licensing Act](#), or
- v a laundry, food service, power plant or technical service or facility used in conjunction with an institution, facility or service described in subclauses i-iv.

**NOTE:** *The limitation does not apply to all healthcare workers. For instance, the limitation does not apply to most home and community care workers.*

There are two circumstances where workers with limited rights are not permitted to refuse work (OHSA 43(1)).

### **43 (1) Non-application to certain workers**

This section does not apply to a worker described in subsection (2),

- when a circumstance described is inherent in the worker's work or is a normal condition of the worker's employment; or
- when the worker's refusal to work would directly endanger the life, health or safety of another person.

## **Policy Purpose**

The purpose of this policy is to:

- provide direction and guidance to all workplace parties regarding the legislated process for work refusals where workers have reason to believe the work to be unsafe
- highlight the importance of prompt and effective resolution of work refusals that protect workers from harm in the workplace
- Highlight the importance of workers reporting hazards to their supervisor/employer as they become known

## Policy Statement

[*Organization*] understands the legislated right for worker's to refuse unsafe work and any limitations under the OSHA section 43.

[*Organization*] is committed to the development, implementation and maintenance of a work refusal policy and procedure. All workplace parties should understand and use the internal responsibility system which is the shared responsibility to identify, assess, and control hazards to the ability that they have the power to do so. <*Name of Organization*> recognizes that as an employer we have ultimate responsibility to protect worker health and safety. It is important that workers promptly report health and safety hazards and incidents to a supervisor or the employer so that they can be addressed.

This policy supports the following:

- Where a worker has reason to believe work to be unsafe, they have the right to refuse work under the law understanding that their right may be limited depending on their circumstances as outlined by the OSHA.
- Where a worker exercises their right to refuse (whether it's a limited right or not), because they had reason to believe the work will endanger them or another worker, it shall occur without reprisal or punishment from the employer.
- That despite limitations placed on healthcare workers in hospitals, long-term care homes, and other types of health care workplaces, if a worker is not provided with the appropriate controls, measures and procedures, protective equipment, training, etc., the limited circumstances in the OSHA may not apply and a worker may be able to refuse unsafe work.
- The employer and supervisors shall take every precaution reasonable under the circumstances to protect the workers, which may include, but is not limited to, investigating reported hazards, complaints, or concerns and putting in place appropriate control measures, procedures and training, as applicable.
- The procedure for the work refusal shall be in compliance with the OSHA.

## Policy Scope

This policy applies to all workers in the organization. All workers, including students, volunteers, contractors, and agents of [*Organization*] are required to comply with this policy and its related procedures.

## Glossary of Terms

**Competent Supervisor:** A “competent person” means a person who,

- a. is qualified because of knowledge, training and experience to organize the work and its performance,
- b. is familiar with the OSHA and the regulations that apply to the work, and
- c. has knowledge of any potential or actual danger to health or safety in the workplace.

**Worker:** all agents or staff members of the organization (including students, volunteers, and contractors) who can be clinical healthcare workers, allied healthcare workers, managers, administrative personnel, physicians, students, security guards, or any individual who has a working relationship with the healthcare organization.

**Workplace Violence:** Under the OSHA, workplace violence means:

- a. the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- b. an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or,
- c. a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

**Workplace:** any land, premises, location or thing at, upon, in or near which a worker works.

## Roles and Responsibilities

### Board of Directors

- Take all reasonable care to ensure that the corporation complies with the OHSA and regulations related to work refusal and with any orders and requirements from the MLTSD inspectors, Directors and Minister – including the prohibition of reprisal of workers.

### Employer

- Take every precaution reasonable in the circumstances, for the protection of the workers.
- Consult the JHSC or HSR when developing, establishing, and putting into effect the work refusal policy and procedures and when developing, establishing, and providing information, instruction, and training on the work refusal policy and procedures.
- Provide human and fiscal resources to develop, implement, and maintain a work refusal policy and procedures.
- Ensure supervisors have completed competent supervisor training (including work refusals and reprisals) to understand the health and safety legislation that applies to the areas under their authority and how to recognize and investigate a work refusal or health and safety concern.
- Provide work refusal policy and procedure training to supervisors, workers, and JHSC/HSR members, or others representing the worker (other worker safety representatives).
- Ensure work refusal is included in the JHSC terms of reference and/or HSR roles and responsibilities.
- Encourage workers to promptly report hazards and incidents to their supervisors and/or the employer including workplace violence.
- Annually review and evaluate the work refusal policy and procedures and training in consultation with stakeholders, e.g., JHSC/HSR, etc.
- Assess and implement required quality improvements post work refusal and communicate any changes and improvements to all supervisors, workers, JHSC/HSR, and/or health and safety representatives.
- Enforce the work refusal policy and procedures and ensure no reprisals.
- Promote and encourage a culture of safety.

### Supervisor(s)

- Take every precaution reasonable in the circumstances for the protection of workers.
- Be familiar with applicable health and safety legislation.
- Demonstrate occupational health and safety supervisor competency.
- Encourage workers to promptly report hazards and incidents to their supervisor and/or the employer including those related to workplace violence.
- Attend work refusal training and understand responsibilities.
- Ensure workers under their authority attend work refusal training; and understand their responsibilities for reporting hazards and right to refuse unsafe work.
- When a worker appears to be refusing work, clarify whether the worker is refusing work based on their reasons to believe that the work is unsafe, especially when they use alternate words to refuse work (e.g., “I’m not going to do that”).
- Follow the required legislated work refusal steps and this policy when a worker refuses work.
- Communicate and train all workers on any changes in policy, measures or procedures.
- Maintain training records e.g., scope and content, date, length of training, signatures, and evaluation of understanding.
- Promote and encourage a culture of safety, including hazard and incident reporting.

### **Worker(s)**

- Attend work refusal training and complete proof of attendance.
- Follow the work refusal policies and procedures as required, including reporting of work refusal to the supervisor or employer.
- Report all hazards and incidents promptly to their supervisor, including those related to workplace violence.
- Attend the investigation of the work refusal as outlined in the OHSA, during the worker's normal work hours, and remain in a safe place near their workstation.

### **Joint Health and Safety Committee (JHSC) / Health and Safety Representative (HSR)**

- Be consulted in the development and revisions of the work refusal policies, procedures and training.
- Include work refusal in the JHSC terms of reference or HSR roles and responsibilities.
- Coordinate work refusal training for JHSC/HSR.
- Worker member to represent workers refusing unsafe work and attend and participate in the investigations process.
- Promote and encourage workers to promptly report hazards and incidents to their supervisors and/or the employer, including those related to workplace violence.
- Make recommendations for improvements in writing to the employer as needed.

### **Occupational Health and Safety Administrator or Delegate(s)**

- Oversees the work refusal policy and procedure development, implementation, monitoring and review, in consultation with the JHSC/HSR.
- Ensure internal and external accident/illness, critical injury, fatality notifications are conducted, completed and documented e.g., for employers/supervisors, MLTSD, JHSC/HSR, Trade Unions.
- Develop regular reports to employers/supervisors and JHSC/HSR.
- Communicate with employers/supervisors, workers, and JHSC/HSR about quality improvement changes.

## **Procedures**

The OHSA outlines the work refusal process. Note: If the issue that led to the work refusal is resolved in Stage 1, then Stage 2 does not occur. See below for the procedures for both Stage 1 and Stage 2.

### **Stage 1**

- A worker has reason to believe that workplace violence is likely to endanger them. The worker stops or does not do the work or task based on this belief. The worker reports immediately to their supervisor/ employer that they will not do the work or task and explains why.
- The supervisor/employer immediately makes arrangements for a **worker safety representative** such as a JHSC worker member, HSR, or another worker who because of knowledge, experience and training is selected by the union that represents the worker, or if there is no union, is selected by the workers to represent them to attend without delay (e.g., come right away).  
*The employer/supervisor may wish to use a work refusal documentation form (per the example provided in Appendix C) to document the work refusal.*
- The supervisor/employer investigates in the presence of the worker and worker safety representative. The supervisor/employer must allow the worker safety representative to attend the investigation.

**Note:** (i) Have a process in place as to how the supervisor/employer will contact the worker safety representative (e.g., call-list). (ii) The worker remains in a safe place nearby as reasonably possible to their workstation and available to the supervisor/employer for the purposes of the investigation.

- The supervisor/employer makes corrective actions as determined in the investigation.
- If the worker agrees that the situation is remedied, the worker returns to work or does the task. If the worker has reasonable grounds to believe that workplace violence continues to be unsafe, they continue to refuse to work and **Stage 2 begins**.

## Stage 2

The worker continues to refuse the work or task because they believe with reasonable grounds (i.e., more evidence than a belief) that workplace violence continues to likely endanger them.

- The worker, worker safety representative, or supervisor/employer calls the Ministry of Labour, Training and Skills Development (MLTSD) and explains the circumstance (e.g., *a worker has refused work; supervisor/employer investigated; worker continues to refuse work based on their belief that the work continues to be unsafe*).

**Note:** During the investigation and the worker's regular working hours, the worker stays in a safe place and as near as reasonably possible, and is available to the MLTSD inspector should the inspector have questions.

- A MLTSD inspector investigates in consultation with the worker, worker safety representative, and employer/supervisor.

**Note:** While awaiting decision from the MLTSD investigation:

- a. The worker may be offered other work if it doesn't conflict with a collective agreement;
  - b. Refused work may be offered to another worker, but the employer must inform the new worker that the offered work is the subject of a work refusal and the reasons for the refusal. This must be done in the presence of:
    - i. a JHSC worker member/HSR, or
    - ii. a worker because of his/her knowledge, experience and training selected by the union to represent the refusing worker. If there is no union, a worker safety representative chosen by workers to represent them.
- The MLTSD inspector provides a written decision to the worker, worker safety representative, and supervisor/employer about whether the workplace violence circumstance is likely to endanger the worker. Possible outcomes are as follows:
    - a. The MLTSD deems the circumstance is not likely to endanger the worker.
      - The worker returns to work or does the task.
    - or** b. The MLTSD deems the circumstance is likely to endanger the worker and orders a corrective action(s) with specified timelines.
      - The supervisor/employer posts orders as required under the OHS Act.
      - The supervisor/employer implements controls and corrective actions by the timeline as per the legal orders.
      - The supervisor/employer delegates a person responsible for following-up on the MLTSD orders whom follows-up as required.
      - The supervisor/employer informs the worker, worker safety representative of the order compliance completion. The worker safety representative signs off on the order completion.
      - The signed order completion is sent to the MLTSD. The supervisor/employer maintains a copy of the document.
      - The worker returns to work or does the task.

### **For Both Stages**

Once the workplace violence hazard has been corrected, the supervisor/employer does the following:

- Documents the work refusal on a Work Refusal Documentation Form (See toolkit Appendix C), for due diligence purposes.
- Updates the workplace violence risk assessment (reassesses risk) and the workplace violence prevention program and policy, in consultation with the JHSC/HSR.
- Communicates the new control measures and corrective actions, policy and procedural changes, and/or quality improvement to all workplace parties that could be affected, including workers and JHSC/HSR.
- Trains workers on any changes or improvements to the work refusal policy, or other measures and procedures.

## **Communication**

The employer, supervisor, or other (e.g., occupational health and safety administrator) communicate the work refusal policy and procedures and any changes to all workers and JHSC/HSR. Reporting workplace violence hazards will be promoted proactively to encourage ongoing reporting.

## **Training**

All workers will be provided work refusal information, instruction, and training as required in the OHS Act and new workers will be provided work refusal training at the time of new hire orientation. All workers will be provided periodic reviews at department training. Training records will be maintained by Human Resources and/or supervisor. Work refusal training will also be provided as part of competent supervisor training and JHSC/HSR training.

Training will include:

- Work refusals policy and procedures
- Roles and responsibilities
- Promoting safety at work and reporting hazards promptly

## **Evaluation**

The employer will evaluate and review the work refusal policy, measures, and procedures annually and revise as necessary in consultation with the JHSC/HSR and other workplace parties as per organizational or workplace policy. Approved changes and quality improvements will be implemented according to an implementation plan and communicated and trained to supervisors and workers in a timely manner.

## **Relevant Additional Policies and Procedures to Reference**

- Work refusal documentation form
- Incident and hazard reporting
- Hazard and incident investigation
- Competent Supervisor
- JHSC Terms of Reference and HSR Roles and Responsibilities

Also review collective agreement(s), if any, regarding work refusal provisions.

## References

- [Occupational Health and Safety Act](#)
- [Health Care Residential Facilities Regulation](#)
- [MLTSD Procedure for a Work Refusal](#)
- [MLTSD Guide to the Occupational Health and Safety Act: Part V Right to refuse or to stop work where health and safety in danger](#)
- [Workplace violence prevention in health care: A guide to the law for hospitals, long-term care homes and home care](#)
- [Ontario Health Care Health and Safety Committee Under Section 21 of the OHS Act Guidance Note for Workplace Parties #7 - Right to Refuse Unsafe Work](#)
- PSHSA's Workplace Violence website - [www.workplace-violence.ca](http://www.workplace-violence.ca)

# Appendix C: Work Refusal Documentation Form

## Purpose of this Tool

The purpose of this tool is to provide a form to document the activities undertaken during a work refusal, including a work refusal due to workplace violence.

## Who Uses this Tool

Supervisors or person(s) responsible for investigating a work refusal.

## How to Use this Tool

The supervisor or delegate completes this form when a work refusal has been reported. The worker who refused the work or task and the worker safety representative sign the form, indicating that they are aware of the information collected on the form and agree to its accuracy. If applicable, the worker assigned to do the work that was refused by another worker signs the form in the designated area, indicating that they agree with the facts documented on this form.

Complete Stage 1 of the form for a worker refusal. If the worker continues to refuse after the supervisor or employer has investigated and implemented control measures, if any, then proceed and complete the Stage 2 section of the form.

Return to the form to answer questions as necessary. This form may be modified to meet the needs of different workplaces.

## EMPLOYER/SUPERVISOR WORK REFUSAL DOCUMENTATION FORM

<b>Name of Worker Refusing the Work:</b>
<b>Worker Title:</b>
<b>Department:</b>
<b>Name of Responding Supervisor:</b>
<b>Date of Work Refusal:</b>
<b>Time Work Refusal was Reported:</b>

<b>WORK REFUSAL STAGE 1</b>	
<b>NOTIFICATIONS</b>	
Who was notified about the work refusal? Check <input checked="" type="checkbox"/> all that apply.	
<input type="checkbox"/> <b>Worker's Direct Supervisor</b>	Name: _____ Time: _____
<input type="checkbox"/> <b>Senior Supervisor/Manager</b>	Name: _____ Time: _____
<input type="checkbox"/> <b>JHSC Worker Member</b> (preferably certified)	Name: _____ Time: _____
<input type="checkbox"/> <b>Health and Safety Representative</b> (for organizations with less than 20 workers)	Name: _____ Time: _____



**Based on the investigation, what are the known root causes? Describe in the space below.**

[Root causes can be *People, Equipment, Material, Environment, Process, or Other* (e.g., System, External Factors) known as PEMEPO].

**Based on the investigation, are control measures and corrective actions required?**

- Yes
- No

If **Yes**, what are they? Describe below.

If **Yes**, have they been implemented?

- Yes
- No
- Some. Explain:

**Work Refusal Stage 1 Outcome**

**Does the worker have reasonable grounds to believe that the work continues to be unsafe?**

- Yes → Go to Stage 2 section of this form
- No → The Work Refusal has been resolved. The worker goes back to the work.

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Time: \_\_\_\_\_

I, \_\_\_\_\_ [Worker's name], no longer have reason to believe the work is unsafe.

Signature of Worker: \_\_\_\_\_ Date: \_\_\_\_\_

**WORK REFUSAL STAGE 2**

**Does the worker continue to refuse the work based on reasonable grounds that the work is likely to endanger him, her, or others?**

- Yes → Contact the Ministry of Labour, Training and Skills Development (MLTSD)
- No

**Who contacted the MLTSD?**

Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Time: \_\_\_\_\_

Name of MLTSD Inspector: \_\_\_\_\_

Investigation Date: \_\_\_\_\_

Investigation Start Time: \_\_\_\_\_

Investigation End Time: \_\_\_\_\_

**Were MLTSD orders issued?**

- Yes → Attach a copy of the Orders to this form.
- No

**Have all MLTSD orders been complied with?**

- Yes → Date of completion: \_\_\_\_\_
- No

**Work Refusal Stage 2 Outcome**

- The Worker returns to the work
- The Worker does not return to the work.  
Explain:

Worker Safety Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Worker Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

***If applicable*, an alternate Worker is requested by the Supervisor to do the refused work.**

**I agree that I was informed of the reasons for and details of the refused work, and have access to the information, and...**

- Yes, I agree to do the work.
- No, I refuse to do the work.

Alternate Worker Name (print): \_\_\_\_\_

Alternate Worker Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

**I agree that the alternate worker was advised of the refusal and provided the reasons for and details of it.**

Worker Safety Representative's Name (print): \_\_\_\_\_

Worker Safety Representative's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

**MLTSD Written Notice (Report). Check  all that apply.**

- Copy to OH&S, JHSC/HSR, and Senior Management/Supervisor(s)
- Copy posted in a place where workers can see it
- Copy Attached

**Copy of Compliance Notice. Check  all that apply.**

- Copy to OH&S, JHSC/HSR, and Senior Management
- Copy to MLTSD
- Copy posted in a place where workers can see it
- Copy Attached

## Appendix D: ‘Check My Workplace Violence Work Refusal Knowledge’ Checklists

### Purpose of this Tool

This tool provides quick checklists to help guide workplace parties on what they need to know about work refusals.

### Who Uses this Tool

The following workplace parties: Employers, Supervisors, Workers, Joint Health and Safety Committee (JHSC)/ Health and Safety Representative (HSR), and Worker Safety Representatives.

### How to Use this Tool

The checklist can be used, modified, and tailored to meet the needs of the workplace and workplace parties. For example, it can be used for safety discussions, communications at lunch and learn session, and as an assessment tool to identify any work refusal knowledge gaps.

### “What Employers and Supervisors Need to Know About Workplace Violence Work Refusal”

- Understand your roles and responsibilities under the OHSA, including the requirement to take every precaution reasonable for the protection of a worker – this may require going beyond basic legislative compliance and may include implementing leading practices within your industry or similar workplaces
- Understand the requirements for OHSA Workplace Violence Prevention and your organization’s requirements
- Understand the workplace violence risks in the areas under your authority
- Ensure supervisor competency requirements under the OHSA are met
- Understand the three rights of a worker
- Understand the right to refuse work and the work refusal process as outlined in the legislation as well as any other processes desired by the organization
- When a work refusal is announced, clarify it is a refusal to work that is related to health and safety, for example, due to workplace violence
- Focus on the work tasks or activity being refused not the worker or behaviours
- Contact, summon, and arrange the attendance if necessary, of a JHSC/HSR/Trade union or non-trade union worker representative (in unionized workplaces) to attend the work refusal and investigation
- Ensure the worker stays in a safe place during the investigation and pending any investigation as per the collective agreement offer the worker alternative or other suitable work
- Do not discipline or punish a worker for complying with the OHSA or exercising their work rights – understanding a worker’s right to refuse without fear of reprisal
- Know how to conduct health and safety and work refusal investigations
- Investigate the work refusal to identify workplace violence root causes and solutions, and, where required, seek assistance

- As necessary, implement control measures and corrective actions in consultation with the JHSC/HSR and communicate changes to the worker, worker safety representative, and any others that may also be affected by the workplace violence hazard and new changes
- Document the work refusal and the investigations
- Understand that workers can continue to refuse work if they have 'reasonable grounds'
- Understand that the supervisor or employer, worker, JHSC/HSR representative or person representing the worker during a refusal (worker safety representative) may call the MLTSD if the worker continues to refuse unsafe work based on 'reasonable grounds'
- Cooperate with the MLTSD Investigation
- Where the MLTSD investigation results in orders or other directions - comply and implement the necessary corrections
- Ensure any orders given by the MLTSD, if any, are posted in the workplace where other workers can see them
- Complete any compliance paperwork required by the MLTSD by the required deadline
- Know that the workplace violence risk assessment may require updating, or a reassessment of risk maybe required, after a work refusal
- As leaders, promote and foster a positive safety culture that values worker safety

### **“What Workers Need to Know About Workplace Violence Work Refusal”**

- Under the Occupational Health and Safety Act (OHSA), workers have responsibilities to report workplace hazards including workplace violence hazards promptly to the employer or supervisor and workers have the responsibility to follow safe rules
- Employers must provide information, instruction, supervision, training, and education to workers - ask your employer about workplace violence prevention and work refusal training
- Understand that the employer and supervisor must take every precaution reasonable to protect a worker
- Workers have three rights, including the right to refuse unsafe work, including for reasons where workplace violence is likely to endanger himself or herself; however, there are limitations for persons working in the operation of certain healthcare facilities, such as:
  - hospitals, long-term care, psychiatric facilities, mental health centres, or rehabilitation facilities
  - residential group home or one providing care to persons with behavioural or emotional problems or with physical or mental disabilities
  - laboratory operated by the Crown or licensed under the Laboratory and Specimen Collection Centre Licensing Act
  - a laundry, food service, power plant or technical services or facility used in the first three bullets above
- Attend work refusal training and understand the steps to a work refusal
- Workers can also speak to their JHSC worker member or HSR or Trade Union to learn more about workplace violence and work refusals
- Workers can refuse work if they have reason to 'believe' the work is unsafe in certain conditions such as workplace violence

- Workers must report the refusal to their supervisor or the employer
- Workers do not have to say the exact words “refusal” for it to be considered a work refusal
- The supervisor or employer must investigate the refusal
- Workers refusing work are entitled to have a JHSC/HSR or other worker safety representative (selected by the union or selected by workers if there is no union) present to represent them during a work refusal, e.g., Trade Union
- Know that if an initial work refusal is not resolved and the worker continues to refuse work on reasonable grounds that any one of these parties may call the MLTSD to have an inspector investigate the refusal and determine whether the work is unsafe
- Workers refusing work must remain in a safe place and available for the investigation unless the employer assigns reasonable alternative work during the normal working hours or assigns other directions to the work
- The employer or supervisor (or anyone operating on behalf of the employer) cannot discipline or punish a worker for refusing unsafe work by law - a worker has a right to refuse work without fear of reprisal
- If the work refusal goes to Stage 2, the refused work can be offered by the supervisor or employer to another worker if the other worker is advised of the original worker’s refusal and provided with reasons why the original worker is refusing, but only in the presence of the JHSC worker member or HSR or other person representing the worker e.g., worker safety representative selected by the union or selected by workers if there is no union
- Workers refusing work are entitled to be paid during the work refusal at the regular or premium rate as may be proper
- Promote a positive safety culture
- If you have additional questions, call your health and safety representative or worker JHSC member or union representative for help

### **“What the Joint Health and Safety Committee (JHSC), Health and Safety Representative (HSR) and/or Worker Safety Representative (Union/Non-Union) need to Know About Workplace Violence Work Refusal”**

- Know and understand workers have three rights in the Occupational Health and Safety Act (OHSA) - the right to know, the right to participate, and the right to refuse unsafe work, including for reasons related to workplace violence
- Check your terms of reference to make sure that work refusal is included and recommend it be included if it is not; ensure content complies with the OHSA
- Attend work refusal training when offered or suggest the JHSC or HSR or other worker representative receive work refusal training
- Know the worker refusal processes, stages, and limitations
- Be prepared to respond to a work refusal and act as a worker safety representative
- Attend and participate in work refusal investigations with supervisor, employer and Ministry of Labour, Training and Skills Development (MLTSD) inspectors when required

- Know that another worker cannot be offered to do the work that has been refused unless the employer or supervisor advises them that a worker is refusing the work and provides the reasons why – this must be conducted in the presence of a JHSC worker member or HSR or another worker safety representative (selected by the union or selected by workers if there is no union)
- Cooperate with the MLTSD if they are investigating
- Review the work refusal reports and documentation to ensure control measures and corrective actions, if any, are implemented
- Determine if the employer has implemented controls elsewhere in the organization where similar hazards or risks exist
- Encourage documentation of the work refusal and communicate the findings to the JHSC, if any
- Know that the JHSC/HSR can make recommendations for the safety of workers to the employer
- Union Representatives are encouraged to speak to their union about resources for work refusal
- Support the internal responsibility system and encourage workers to report hazards promptly to their employer or supervisor
- Promote a positive safety culture that values worker safety

# Appendix E: Work Refusal Process Checklist

## Purpose of this Tool

The purpose of this tool is to provide a self-assessment or audit checklist of the key work refusal process and other applicable sections of the OHSA. The tool can help employers and supervisors stay in compliance with the OHSA pertaining to work refusal, particularly for those workplaces that have never had or do not have a work refusal very often.

The tool can also be used proactively as a self-assessment, without a work refusal having taken place, to understand the work refusal steps and the responsibilities of the workplace parties involved.

## Who Uses this Tool

Employers, Supervisors, Joint Health and Safety Committee (JHSC)/Health and Safety Representative (HSR), and other workplace party decision-makers.

## How to Use this Tool

The person delegated as the investigator of workplace violence incidents completes this form. The tool is structured in a table with questions in the first column, Yes, No, and N/A in the subsequent column, and a Comment column as the last column of the table. The tool can be used before, during or after a work refusal. If used after a work refusal, complete the form by following the steps listed below:

- For each question, answer **Yes**, **No**, or **N/A (Not Applicable)** by placing a checkmark ( ✓ ) in the appropriate box.  
 Selecting **Yes** = compliance with the OHSA is achieved and the steps for work refusal were followed  
 Selecting **No** = non-compliance with the OHSA or the step was not followed  
 Selecting **N/A** = the question does not apply to the circumstance
- Where additional information would be important to note, include in the Comments column.
- Where No answers are identified, additional follow-up or training about the work refusal process may be necessary (unless there are comments that justify the answer).

## OHSA Work Refusal Process Checklist

WORK REFUSAL STAGE 1				
Question	Yes	No	N/A	Comment(s)
1. Did worker report the work refusal to the supervisor or employer?				
2. Did the supervisor respond and clarify the worker was refusing unsafe work?				
3. Did the supervisor request the worker safety representative (JHSC worker member, HSR or worker representative) to attend the investigation without delay?				
4. Did the supervisor or employer make available a worker safety representative (JHSC worker member, HSR or worker representative) to attend the investigation without delay?				

Question	Yes	No	N/A	Comment(s)
5. Did the supervisor or employer investigate the refused work immediately in the presence of the worker and JHSC worker member, HSR, or worker safety representative?				
6. Did the worker remain near their workstation and in a safe place until the investigation was completed?				
7. Did the investigation result in the worker returning to work after the investigation or any steps to deal with the circumstances that caused the worker to refuse or do particular work?				
8. For a workplace violence work refusal, did the supervisor or employer update the workplace violence risk assessment and advise the JHSC/HSR of the results and, if in writing, provide them a copy?				
9. Where controls, measures, and corrective actions were put in place, were those affected informed?				
10. Was the Work Refusal report shared in writing with the JHSC/HSR?				
11. Workers were not disciplined or punished (fear of reprisal) for exercising their right to refuse.				

**WORK REFUSAL STAGE 2**

Is Stage 2 applicable?

- Yes → Answer the questions below.  
 No

Question	Yes	No	N/A	Comment(s)
12. Where a worker continued to refuse work based on reasonable grounds and following the investigation or any steps to deal with the circumstances, did the worker, worker representative, or employer notify a Ministry of Labour, Training, and Skills Development (MLTSD) inspector?				
13. Did the employer ensure that the employer, supervisor, worker, and worker safety representative (JHSC/HSR or another worker representative) were made available for the MLTSD inspection?				
14. Pending the investigation by the inspector, did the worker remain, during their normal working hours, in a safe place near or as reasonably near to their work station and made available to the inspector; OR, based on the collective agreement, were assigned reasonable alternative work or other directions during the worker's normal working hours?				
15. Workers were not disciplined or punished (fear of reprisal) for exercising their right to refuse.				
16. If other worker(s) were assigned to use or operate equipment, machine, device or thing or to work in the workplace or in the part of the workplace being investigated, were they advised of the other worker's refusal and of their reasons for the refusal, in the presence of the JHSC worker member, HSR or worker representing workers (selected by the union or selected by workers if there is no union)?				

Question	Yes	No	N/A	Comment(s)
17. Were workers and JHSC worker, HSR or other worker representatives, paid and deemed to be at work during the work refusal process?				
18. Where orders were provided to the employer by the MLTSD inspector, the orders were posted and copies provided to the JHSC and/or HSR?				
19. Where MLTSD orders were issued to protect worker health and safety, did the employer and/or other parties named in the order, comply with the order?				
20. For a workplace violence work refusal, did the supervisor or employer update the workplace violence risk assessment, advise the JHSC/HSR of the results, and provide a copy of the report as per section?				
21. Was the MLTSD Work Refusal written decision (report) shared in writing with the JHSC/HSR?				
22. Where control measures and corrective actions were implemented, have those affected been informed?				
Additional Comments:				

## OHSWA Work Refusal Process Checklist Example Checklist Scenario

**Scenario:** The below checklist was completed for the scenario outlined in the “Work Refusal Healthcare Scenarios” section above – for the scenario “Work Refusal in a Home and Community Care Setting”.

WORK REFUSAL STAGE 1				
Question	Yes	No	N/A	Comment(s)
1. Did worker report the work refusal to the supervisor or employer?	✓			Yes, the worker called her supervisor from her car to refuse the work.
2. Did the supervisor respond and clarify the worker was refusing unsafe work?			✓	No, the supervisor did not clarify as they were clear that it was a work refusal.
3. Did the supervisor request the worker safety representative (JHSC worker member, HSR or worker representative) to attend the investigation without delay?	✓			Yes, the supervisor called the worker safety representative – in this case a union representative.
4. Did the supervisor or employer make available a worker safety representative (JHSC worker member, HSR or worker representative) to attend the investigation without delay?	✓			Yes, the worker safety representative was made available.

Question	Yes	No	N/A	Comment(s)
5. Did the supervisor or employer investigate the refused work immediately in the presence of the worker and JHSC worker member, HSR, or worker safety representative?	✓			Yes, the supervisor, worker, and worker safety representative met at a coffee shop to discuss and investigate the work refusal.
6. Did the worker remain near their workstation and in a safe place until the investigation was completed?	✓			Yes, in this case, the worker never entered the client home, but stayed close-by until a plan to investigate was put into place.
7. Did the investigation result in the worker returning to work after the investigation or any steps to deal with the circumstances that caused the worker to refuse or do particular work?	✓			Yes, control measures were put into place and the work refusal was resolved to the satisfaction of the worker.
8. For a workplace violence work refusal, did the supervisor or employer update the workplace violence risk assessment and advise the JHSC/HSR of the results and, if in writing, provide them a copy?		✓		The supervisor documented the work refusal, control measures, etc., but did not (yet) update the workplace violence risk assessment.
9. Where controls, measures, and corrective actions were put in place, were those affected informed?	✓			Yes, the control measures put into place were communicated to those involved.
10. Was the Work Refusal report shared in writing with the JHSC/HSR?		✓		The work refusal was documented for quality improvement purposes; however, the report was not yet shared with the JHSC/HSR.
11. Workers were not disciplined or punished (no fear of reprisal) for exercising their right to refuse.	✓			The worker was not disciplined or punished for refusing the work (there was no reprisal).

**WORK REFUSAL STAGE 2**

Is Stage 2 applicable?

- Yes → Answer the questions below.  
 No

**Additional Comments:**

The work refusal was resolved in Stage 1; therefore, the Stage 2 investigation was not required.  
 The workplace violence risk assessment should be updated to reflect any learnings (e.g., use of control measures for the potential of workplace violence) from this work refusal process.

## How the Toolkit was Developed

This toolkit was developed and informed by the following information and evidence:

- Scientific and grey literature;
- Advice and input from the project's Steering Committee (see acknowledgements section below for the list of organizational contributors);
- Expertise and input from the project Design and Development Consultation Forum, a group that was assembled for the purpose of this project and represented a broad range of individuals working in different healthcare settings (acute, long-term care, community care, employer associations, labour unions) and organizational levels in a variety of roles (frontline care providers, union representatives, supervisors, health and safety professionals, Joint Health and Safety Committee members, and Co-Chairs);
- Practices used in jurisdictions or by employers across Canada (the scan was focused on Canadian provinces and employers in Ontario identified by Steering Committee members, other research, or through participation on the Design and Development Consultation Forum and having done notable work in these areas); and
- Expertise of PSHSA's occupational health and safety consultants.

## Acknowledgements

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We could not have developed this toolkit without the Steering Committee’s commitment, leadership, expertise, and input.

### Organizations Represented on VARB Steering Committee

Addictions & Mental Health Ontario (AMHO) / Ontario Federation of Community Mental Health and Addiction Programs

AdvantAge Ontario

Canadian Union of Public Employees (CUPE)

Guelph General Hospital (GGH)

Health Shared Services Ontario (HSSO)

Home Care Ontario (HCO)

Institute for Work and Health (IWH)

Ministry of Health (MOH)

Ministry of Labour, Training and Skills Development (MLTSD)

Ontario Community Support Association (OCSA) / Personal Support Network of Ontario

Ontario Hospital Association (OHA)

Ontario Long-Term Care Association (OLTCA)

Ontario Nurses’ Association (ONA)

Ontario Personal Support Workers Association (OPSWA)

Ontario Public Service Employees Union (OPSEU)

Registered Nurses’ Association of Ontario (RNAO)

Registered Practical Nurses Association of Ontario (WeRPN)

Service Employees International Union (SEIU)

Unifor

## Definitions

**Aggression:** hostile or violent behaviour or attitudes.

**Behaviour Care Plan:** a written plan that details the care to be provided to prevent or control violent behaviours. It is developed by a clinical healthcare worker or team in collaboration with (when possible) the care recipient and/or substitute decision-maker.

**Control Measures:** measures and procedures used to address workplace health and safety hazards and risks.

**Employer:** means a person who employs one or more workers or contracts for the services of one or more workers to perform work or supply services (OHSA).

**Home and Community Care Setting:** care provided in home and community settings, and includes care in these settings provided by public health.

**Hospital Setting:** healthcare facilities that provide a range of care such as acute care (e.g., emergency or surgical care), specialize treatment (e.g., trauma centres, treatment centres for chronic treatment, birthing centres), and hospice care.

**Long-Term Care Setting:** healthcare facilities where adults can live and receive help with most or all daily activities and access to 24-hour nursing and personal care.

**Responsive Behaviours:** a protective means by which persons with dementia or other conditions may communicate an unmet need (e.g., pain, cold, hunger, constipation, boredom) or reaction to their environment (e.g., lighting, noise, invasion of space) (PSHSA).

**Supervisor:** a person who has charge of a workplace or authority over a worker (OHSA).

**Violent Behaviour:** acts of violence such as but not limited to choking, punching, hitting, shoving, pushing, biting, spitting, shouting, swearing, verbal threats, groping, pinching, kicking, throwing objects, shaking fists, and threatening assault.

**Worker:** staff members who can be clinical healthcare workers, allied healthcare workers, managers, administrative personnel, physicians, students, security guards, or any individual who has a working relationship with the healthcare organization (PSHSA).

**Worker Safety Representative:** a Joint Health and Safety Committee (JHSC) worker member, Health and Safety Representative, or another worker who because of their knowledge, experience and training is selected by the union that represents the worker, or if there is no union, is selected by the workers to be a representative during a work refusal (OHSA).

**Violent Person:** a person who displays behaviours that are verbally or physically aggressive, and intentional or unintentional in nature that may or may not harm or injure others.

**Workplace Violence:** under the OHSA, workplace violence means:

- a. the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
- b. an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker, or;
- c. a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

## Resources and References

### Additional Resources

[Ontario's Occupational Health and Safety Act \(OHSA\)](#)

[Workplace violence prevention in health care: A guide to the law for hospitals, long-term care homes and home care](#)

[Ontario Health Care Health and Safety Committee Under Section 21 of the OHSA Guidance Note for Workplace Parties #7 - Right to Refuse Unsafe Work](#)

[PSHSA's Workplace Violence website - www.workplace-violence.ca](#)

[#frontlinehealthcare PTSD Resource Toolkit](#)

### Additional Regulated Health Professional and Related Resources

[College of Nurses of Ontario Practice Guideline for Refusing Assignments and Discontinuing Nursing Services](#)

[Ontario Nurses' Association My Right to Refuse Unsafe Work: A Guide for ONA Members](#)

[RNAO's Preventing and managing workplace violence in the workplace](#)

[College of Occupational Therapists of Ontario Guidelines for Discontinuing Service](#)

[College of Physiotherapists of Ontario Providing or Refusing Care Standard](#)

[Ending the Physician-Patient Relationship](#)

### References

Cooper, M. (2000). Toward a model of safety culture. *Safety Science*, 36, 111-136

[MLTSD's report: Preventing workplace violence in the health care sector](#)

[MLTSD's Reprisals against workers by employers](#)

Rundall, T.G. Starkweather, D.B., & Norrish, B.R. (1998). Chapter 8: The Impact of hospital restructuring on hospital culture in p. 121-141. *After restructuring: Empowerment strategies at work in America's hospitals*. Jossey-Bass, San Francisco. P. 121-141.

Sibbald, B. (2003). Right to refuse work becomes another SARS issue. *Canadian Medical Association Journal*, 169(2), 141.

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## **Work Refusal Toolkit for Workplace Violence**

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