

Employer Update: Naloxone Kits Now Required in At-Risk Workplaces under Ontario Occupational Health and Safety Act

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Employers in Ontario are now required to make naloxone kits available in workplaces where there is a risk that a worker will experience an opioid overdose. This change came into force on June 1, 2023, under the provincial *Occupational Health and Safety Act* (“**OHS**A”).

In order to comply with subsection 25.2(1) of the *OHS*A and the new “Naloxone Kits” regulation under the *OHS*A (O. Reg 559/22: Naloxone Kits), employers must provide naloxone when they are aware or ought to be reasonably aware that there may be a risk of a worker having an opioid overdose at a workplace where that worker performs work for the employer, or where the prescribed circumstances exist.

Employers are only required to respond to risks posed by their own workers.

To comply with the *OHS*A, employers must provide at least one naloxone kit in each workplace where the risk is present and may provide more than one kit if they determine that there is a need to. Employers must also ensure that the naloxone kit is in the charge of an appropriately trained worker who works in the vicinity of the kit when there are other workers in the workplace. Worker training shall include training to recognize an opioid overdose, to administer naloxone and to acquaint the worker with any hazards related to the administration of naloxone (and any other prescribed requirements).

Workplaces that are more likely to be considered high-risk include construction sites, bars and nightclubs, according to the [Government of Ontario](#). The new requirements do not apply to workplaces where the risk of opioid overdose comes from non-workers, such as customers or patients.

Employers can obtain additional information on how to access free naloxone training and kits from the [Canadian Red Cross](#) and [St. John Ambulance](#).

Employer Liability

Employers of high-risk workplaces that do not provide naloxone kits may be found liable for a contravention of the *OHS*A. Pursuant to section 66 of the *OHS*A, employers who do not comply with their obligations under the *OHS*A may be ordered to pay a fine up to \$500,000 or imprisoned for up to twelve months.

In the case that an employer or employee must administer naloxone at the workplace in response to an opioid overdose, protection from liability in accordance with the provisions the *Good Samaritan Act, 2001* would generally apply.

Other Employer Obligations

Under the *OHSA*, all Ontario employers must review their health and safety policies annually.

Supervisors have general duties under the *OHSA* that may apply to workplace impairment. Supervisors must:

- inform a worker of any potential or actual dangers to their health and safety that the supervisor is aware of
- take every precaution reasonable in the circumstances for the protection of a worker

For example, a supervisor that is aware that a worker is impaired and may cause a hazard in the workplace must take every precaution reasonable in the circumstances to protect them and other workers. This could include stopping the impaired worker from doing work that may be hazardous.

Employers should follow the developments of Bill 79, *Working for Workers Act, 2023*, which is currently going through the process of being enacted. If passed, Bill 79 would increase the maximum fine for a corporation for a conviction under the *OHSA* from \$1,500,000 to \$2,000,000.

Voluntary naloxone kit initiatives have recently been launched in other provinces. For example, in Victoria, British Columbia, the B.C. Construction Industry Rehab Plan's "A Kit in Every Hand" program provides members of the local branch of the Carpenters' Regional Council B.C. and Yukon with naloxone kits.

For assistance with your organization's compliance with the *OHSA* naloxone requirements or advice on any other employment law matter for your organization, please feel free to contact a member of WeirFoulds' [Employment & Labour Practice Group](#).

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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