

# EMPLOYER OBLIGATION “DISCLOSURE OF POTENTIAL COVID-19 TRANSMISSION”

Employers and Constructors have obligations under the *Occupational Health and Safety Act (OHSA)* and its regulations to protect workers from hazards in the workplace. This includes making sure workers and supervisors are aware of any hazard that they might encounter in the workplace, including infectious diseases.

Infectious diseases acquired from workplace exposures to biological agents are considered to be occupational illnesses. In cases of suspected Coronavirus (also known as “COVID-19”) infections, and the potential for spread within the workplace and community, Employer and Constructors must immediately notify the union and all other workers onsite when an infection is reported. The following protocol shall be followed:

1. If a worker shows symptoms of a respiratory illness, he or she must be encouraged to remain at home and contact his or her health care provider, Telehealth Ontario at 1-866-797-0000 or the local Public Health unit.
2. The employer must **immediately** call Public Health for guidance on how to assess the risk and respond.
3. **The Employer must notify the General Contractor, all sub-trades and all respective unions.**
4. The Employer, along with representatives of the respective union(s), and or joint health and safety committee worker member/health & safety worker representative must then conduct a risk assessment (**contact tracing**) to determine such things as what parts of the jobsite and what other workers would have had contact with the infected worker.
5. Based on this risk assessment, the employer may be required to:
  - Send co-workers and or supervisors who were exposed to the worker home for 2 weeks; ask them to self-isolate and self-monitor and report any COVID-like illness to the employer;
  - Shut down the job site while disinfection of the affected workplace area and equipment is taking place;
  - Monitor workers as they return to the job site;
  - Implement other measures based on advice from public health officials.
  - Employers **in consultation with the union representative should notify all employees who have been subject to a credible transmission risk of COVID-19 in the workplace.**
6. **Under no circumstances should an employer transfer workers to other worksites in the event that there has been a suspected risk of COVID-19 exposure on a site. Nor should Employers transfer employees if a site has been shut down due to COVID-19 exposure.**

## **The Joint Health Safety Committee**

At work sites, when there is a joint health and safety committee in place, it shall be advised of any worker who is suspected of being diagnosed with, or has been diagnosed with, COVID-19.

Under the Occupational Health & Safety Act, the committee is granted the following powers:

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| Sec. 9, Sub. 18(d) | The committee has the power to obtain information from the employer on any actual or potential hazard or any experiences, practices and standards of which the employer is aware. |
| Sec. 9, Sub.18 (f) | The committee must be consulted about any health and safety testing being carried out, and has the right to have a worker member present at the beginning of such testing.        |

Sec. 57, Sub. 10 (a) (b) The committee or the health and safety representative must be given copies of any reports or orders issued to the employer by the MOL inspector. The employer must also post a copy or copies of the reports or orders in a conspicuous place in the workplace. The worker who made the health and safety complaint may request the report or order from the inspector.

### **Collecting/Disclosing Personal Information**

- Employers may have to collect, use, and disclose personal information in order to prevent or manage the risk and/or reality of COVID-19's rapid spread.

- (a) within 14 days of International travel;
- (b) within 14 days of developing symptoms of COVID-19; or
- (c) after testing positive for COVID-19,

Employers must appropriately balance that individual's right to privacy with the employer's obligation to maintain a safe workplace.

- Employers **in consultation with the union representative should notify employees who have been subject to a credible transmission risk of COVID-19 in the workplace.**
- In carrying out such notifications, employers and unions should make reasonable efforts not to disclose information that might (alone or together with publicly available information) identify the individual who may have caused the COVID-19 transmission risk.
- The objective, rather, is to provide potentially exposed employees with sufficient information to obtain medical advice and, if necessary, treatment. To that end, some guiding principles regarding notification are set out below:

#### **DO NOT PROVIDE INFORMATION REGARDING:**

- The name, date of birth, or other identifiers of the COVID-19 subject individual.

#### **DO PROVIDE INFORMATION REGARDING:**

- The fact that the individual was potentially exposed to COVID-19;
- If known:
  - ✓ date(s) of their potential exposure; and
  - ✓ the extent and circumstances of their potential exposure (i.e., incidental indirect contact versus prolonged direct contact).

### **(b) Mandatory Public Health Reporting**

Public Health is the leading authority for all issues related to COVID-19 and only they can provide detailed instructions to employees and employers. Occupational illnesses among employees on site, including COVID-19 will be reported:

- a. to the Ministry of Labour, Training and Skills Development (in writing) within four (4) days.
- b. to the Joint Health and Safety representative.

- c. to the Local union ; and
- d. to the Workplace Safety and Insurance Board (WSIB)

If any employee is confirmed to have tested positive for COVID-19, that employee's jobsite must be shut down immediately by the employer and/or the Ministry of Labour, Training and Skills Development (MLTSD) until a safety and risk assessment is completed. That assessment shall be completed in conjunction with MLTSD.

Work crews including supervisors who have been in contact with the infected employee must be required to self-isolate away from the workplace for fourteen (14) days, among other measures which at a minimum shall include thorough cleaning and disinfecting of all common surfaces.

**Any recommendations of Public Health officials will be followed. Subject to any recommendations of Public Health officials, employees who have completed a fourteen (14) day self-isolation period without experiencing any symptoms consistent with COVID-19 shall be entitled to be recalled immediately to their original position, with no loss of seniority, if applicable.**