

FTR Now

PTSD Strategy Announced by Ontario

Date: February 4, 2016

On February 1, 2016, the Ontario government announced new initiatives designed to address post-traumatic stress disorder (“PTSD”) suffered by first responders. The initiatives build on the feedback received by the government at its Summit on Work-Related Traumatic Mental Stress, hosted by the Minister of Labour in March 2015.

In this *FTR Now*, we review these initiatives, the likelihood of legislative amendment to Ontario workplace safety legislation in relation to PTSD and the practical implications of such amendments for emergency management services employers.

THE PTSD INITIATIVES

The Ontario government has announced four initiatives to prevent or minimize the risk of PTSD occurring among first responders:

- creating a radio and digital campaign aimed at increasing awareness about PTSD amongst first responders, their families and communities and eliminating the stigma that too often prevents those in need from seeking help;
- holding an annual leadership summit to be hosted by the Minister of Labour to highlight best practices, recognize leaders, and monitor progress in dealing with PTSD. This initiative institutionalizes the initial Summit hosted by the Minister in March 2015;
- creating a free online toolkit with resources on PTSD tailored to meet the needs of employers and each of the first responder sectors; and
- providing grants for research that supports the prevention of PTSD [1].

Concerns regarding PTSD within the emergency responder community have been receiving increasing attention in recent years.

Currently, there is no statutory presumption in the Ontario *Workplace Insurance and Safety Act* (“WSIA”) that PTSD developed by first responders is an occupational disease that occurred due to employment. This is in contrast to the rebuttable statutory presumptions that are already in place relating to prescribed cancers and heart disease suffered by certain first responders, amongst other categories of rebuttable statutory presumptions in place under the WSIA. A rebuttable statutory presumption operates to shift the burden of proof to show that the condition is not work-related, rather than the worker needing to prove its work-relatedness.

In recent years, MPP Cheri DiNovo introduced five Private Member’s Bills to amend the WSIA to create such a presumption. None became law, although Bill 67, the *Workplace Safety and Insurance Amendment Act (Post-Traumatic Stress Disorder)*, 2014, progressed past Second Reading and in February 2014, MPPs voted unanimously to send it to the Standing Committee on General Government for further study and review. The Bill died on the order paper with the call of the June 2014 provincial election.

The workers’ compensation legislation in Alberta and Manitoba both already include rebuttable presumptions relating to PTSD. Alberta’s presumption, which relates only to prescribed first responders, has been in effect since December 2012. The rebuttable presumption in the Manitoba *Workers’ Compensation Act* came into effect on January 1, 2016 and applies to any worker (not only a first responder) who is exposed to certain types of traumatic events and is diagnosed with PTSD.

With the announcement of the government’s PTSD initiatives, the Minister of Labour has suggested that the Ontario

government will be tabling a Government Bill relating to PTSD once the Legislature resumes sitting on February 16, 2016 [2].

GOING FORWARD

The initiatives announced by the government are intended to educate employers, workers and their families, and the community about PTSD. An online resource tool for employers in each of the first responder sectors will be created.

While not definitive at this point, the current government is likely to introduce legislation amending the WSIA to provide for a rebuttable presumption relating to PTSD and first responders. There was all-party support for Bill 67 in 2014 prior to the election and clearly this is an issue the government has targeted as significant.

The consequences that flow from this legislation, if enacted, include the potential increased costs of claims for employers, particularly Schedule 2 employers who typically employ first responders, and the practical difficulty for employers of successfully rebutting the statutory presumption of work-relatedness. For a discussion of these consequences, please refer to our earlier *FTR Now* on Bill 67 "[Ontario Moving Closer to Creating Statutory Presumption for PTSD Claims Made By Emergency Responders.](#)"

Should you have any questions about the government's PTSD initiative, please contact [Jodi Gallagher Healy](#) at 519.931.5605, [John W. Saunders](#) at 416.864.7247, [Mark H. Mason](#) at 416.864.7280 or [your regular Hicks Morley lawyer](#).

[1] "[Ontario Announces New PTSD Strategy for First Responders](#)" Ontario Government News Release, February 1, 2016

[2] "Ontario legislation aims to cut barriers to PTSD treatment for first-responders" The Toronto Star, February 1, 2016

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