

1 Section 2 of New Brunswick Regulation 91-191 under the Occupational Health and Safety Act is amended

(a) in the French version in the definition “verrouiller” by striking out the period at the end of the definition and substituting a semicolon;

(b) by adding the following definitions in alphabetical order:

“harassment”, in a place of employment, means any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including bullying or any other conduct, comment or display made on either a one-time or repeated basis that threatens the health or safety of an employee, and includes sexual harassment, but does not include reasonable conduct of an employer in respect of the management and direction of employees at the place of employment; (*harcèlement*)

“violence”, in a place of employment, means the attempted or actual use of physical force against an employee, or any threatening statement or behaviour that gives an employee reasonable cause to believe that physical force will be used against the employee, and includes sexual violence, intimate partner violence and domestic violence; (*violence*)

2 The Regulation is amended by adding before Part XXIII the following:

PART XXII.I
VIOLENCE AND HARASSMENT

Codes of Practice

Assessment of risk

374.1(1) An employer shall assess the risk of violence at the place of employment.

374.1(2) In assessing the risk of violence, an employer shall consult with

- (a) all committees, if any,
- (b) all health and safety representatives, if any, or
- (c) if there is no committee or representative, employees.

374.1(3) When conducting the assessment referred to in subsection (1), the employer shall consider the following information:

- (a) the location and circumstances in which the work is carried on;
- (b) the risk that may arise out of or in connection with
 - (i) an employee's work, or
 - (ii) sexual violence, intimate partner violence or domestic violence occurring at the place of employment;
- (c) the categories of employees at risk, or the types of work that place employees at risk of experiencing violence;
- (d) the possible effects on the health or safety of employees who are exposed to violence at the place of employment;
- (e) all previous incidents of violence at the place of employment; and
- (f) incidents of violence in similar places of employment.

374.1(4) An employer shall ensure that the assessment referred to in subsection (1) is documented and made available to all committees, if any, or all health and safety representatives, if any, and to an officer on request.

374.1(5) The employer shall review the assessment of the risk of violence and update it

- (a) when there is a change in conditions at the place of employment, or
- (b) when ordered to do so by an officer.

Establishing code of practice for violence

374.2(1) The following definitions apply in this section.

“emergency service provider” means

- (a) a police force as defined in the *Police Act*,
- (b) a fire department organized to serve any area of the Province, or
- (c) an ambulance service provided in accordance with the *Ambulance Services Act*. (*fournisseur de services d’urgence*)

“health professional” means a person who

- (a) provides a service related to the preservation or improvement of the health of individuals or the diagnosis, treatment or care of individuals who are injured, sick, disabled or infirm, and
- (b) is registered or licensed under an Act of the Province to provide the service. (*professionnel de la santé*)

“pharmacist” means a person licensed to practise pharmacy under the *New Brunswick Pharmacy Act, 2014*. (*pharmacien*)

“Public Service” means the Public Service as defined in the *Public Service Labour Relations Act*. (*services publics*)

“social worker” means a person registered under the *New Brunswick Association of Social Workers Act, 1988*. (*travailleur social*)

“veterinarian” means a person who is licensed to practise veterinary medicine under the *Veterinarians Act*. (*vétérinaire*)

374.2(2) A code of practice for violence shall

- (a) mitigate the risk of violence at the place of employment and ensure the health and safety of employees to the extent possible, and
- (b) consider any risk of violence that is identified in an assessment referred to in subsection 374.1(1).

374.2(3) An employer that has 20 or more employees regularly employed at one or more places of employment in the Province shall establish a written code of practice for violence.

374.2(4) An employer that has fewer than 20 employees regularly employed at one or more places of employment in the Province shall establish a written code of practice for violence in any of the following circumstances:

- (a) work is carried on at the place of employment by any of the following persons:
 - (i) an employee of the Public Service;
 - (ii) a supplier of goods or services to a public body under the *Procurement Act*;
 - (iii) an employee of an emergency service provider;
 - (iv) a health professional;
 - (v) a pharmacist;
 - (vi) a veterinarian;
 - (vii) a social worker, outreach worker, crisis intervener or support worker, including persons providing services to victims of intimate partner violence, domestic violence or sexual violence;
 - (viii) an employee of an agency as defined in the *Private Investigators and Security Services Act*; or
 - (ix) a person registered or licensed under an Act of the Province to provide financial services;

- (b) the following work is carried on at the place of employment:

- (i) teaching;
 - (ii) early learning and childcare services;
 - (iii) retail sales;
 - (iv) transporting goods or persons for hire in a vehicle, whether the vehicle is owned by a public body or privately owned; or
 - (v) home support services;
- (c) work is carried on at any of the following places of employment:
- (i) a casino or other gaming premises under the *Gaming Control Act*;
 - (ii) a place in respect of which a licence or permit issued under the *Liquor Control Act* applies and to which members of the public have access; or
 - (iii) a cannabis retail outlet as defined in the *Cannabis Control Act*; or
- (d) an assessment referred to in subsection 374.1(1) identifies a risk of violence.

Code of practice – violence

374.3(1) A code of practice established under section 374.2 shall include the following:

- (a) an inventory of the locations at which and circumstances in which
 - (i) violence may reasonably be expected to occur, and
 - (ii) the code of practice would be applicable;
- (b) a description of the types of violence that may reasonably be expected to occur;
- (c) a description of the categories of employees at risk, or of the types of work that place employees at risk of experiencing violence;
- (d) the identity of the person responsible for implementing the code of practice; and

(e) a statement that an employee shall report an incident of violence to the employer as soon as the circumstances permit.

374.3(2) A code of practice referred to in subsection (1) shall set out the actions and measures the employer shall take to mitigate the risk of violence, including

- (a) the methods and equipment to be used and the procedures to be followed,
- (b) the follow-up measures to be used with affected employees,
- (c) the means, including alternative means, by which an employee may secure emergency assistance,
- (d) the procedure the employer shall follow to investigate and document any incident of violence of which the employer is aware,
- (e) the manner in which affected employees shall be informed of the results of an investigation,
- (f) the procedure the employer shall follow to implement any corrective measures identified as a result of the investigation, and
- (g) the identification of training needs.

Code of practice – harassment

374.4(1) An employer shall establish a written code of practice for harassment at the place of employment to ensure the health and safety of employees to the extent possible.

374.4(2) A code of practice for harassment shall include the following:

- (a) a statement that every employee is entitled to work free of harassment;
- (b) the identity of the person responsible for implementing the code of practice;
- (c) a statement that an employee shall report an incident of harassment to the employer as soon as the circumstances permit;
- (d) the procedure the employer shall follow to investigate and document any incident of harassment of which the employer is aware;

- (e) the manner in which affected employees shall be informed of the results of an investigation;
- (f) the procedure the employer shall follow to implement any corrective measures identified as a result of the investigation;
- (g) the follow-up measures to be used with affected employees; and
- (h) the identification of training needs.

Implementation

374.5(1) An employer shall ensure that the codes of practice established under section 374.2 and 374.4 are, when followed, sufficient to provide for the health and safety of employees at the place of employment to the extent possible.

374.5(2) In establishing and implementing the codes of practice referred to in subsection (1), an employer shall consult with

- (a) all committees, if any,
- (b) all health and safety representatives, if any, or
- (c) if there is no committee or representative, employees.

374.5(3) An employer shall ensure that a copy of the codes of practice referred to in subsection (1) is readily available to an officer and to employees on request.

374.5(4) An employer shall ensure that the codes of practice referred to in subsection (1) are implemented and followed at the place of employment.

374.5(5) An employee shall follow all codes of practice.

Privacy

374.6(1) An employer shall not disclose to any person the identity of a person who is involved in an incident of violence or harassment or the circumstances related to the incident, other than when the disclosure is

- (a) necessary in order to investigate the incident,
- (b) required in order to take corrective measures in response to the incident, or

(c) required by law.

374.6(2) The personal information that is collected, used or disclosed by the employer under sections 374.1 to 374.5 shall be limited to the minimum amount of information necessary to accomplish the purpose.

Training

374.7(1) An employer shall implement a training program in respect of the codes of practice established under sections 374.2 and 374.4 for each employee and for each supervisor who is responsible for an employee.

374.7(2) The training record for each employee shall be made available to an officer on request.

Review and update

374.8(1) An employer shall review the codes of practice established under section 374.2 and 374.4 at least once each year in consultation with

- (a) all committees, if any,
- (b) all health and safety representatives, if any, or
- (c) if there is no committee or representative, employees.

374.8(2) An employer shall update the codes of practice referred to in subsection (1)

- (a) when there is a change in conditions at the place of employment, or
- (b) when ordered to do so by an officer.

3 *This Regulation comes into force on April 1, 2019.*