POLICY: Right To Refuse Unsafe Work

Reviewed Date: 12/12/11  Approved Date: 12/12/11  Released Date: 12/12/11
Reviewed by: PG/SB/KP  Approved by: PG  Released by: NS

Statement

AdvoCare Health Services supports employees’ rights to refuse unsafe work, as per Worker’s Compensation Board, Regulations specific to refusal of unsafe work: 3.12 Procedure for Refusal and 3.13 No Discriminatory Action for Refusal.

Definition of Unsafe Work:
While an exact definition is not provided by WSBC, we refer to the concept referred to in the WSBC Act 3.12 which indicates that “a person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person.”

Application

1. Should an employee refuse work for safety reasons, the immediate AdvoCare contact person supervisor will obtain relevant data and report same to the Program Manager for support, intervention and risk management. The HR Director or, an alternate company Director, will be advised of any outstanding matters.
2. The Site Leader or Administrator will be made aware of any outstanding concerns and, the company Director in conjunction with the Program Manager will collaborate to resolve the matter.
3. Risk management strategies including new learning will be shared with staff in a timely manner.
4. The OH&S committee will be made aware of the situation, highlights of the investigation and actions to date.
5. Should changes be required of a contract partner, the CEO or President will approve and/or communicate actions required. If a mutually agreed upon resolution is not reached, the company will consider actions which safeguard staff and itself, which may include providing notice to terminate the contract with the partner.
6. Should an environment be found safe and, the staff member continues to refuse the assignment, it will be noted as a shift refusal. Staff will be informed of their right to present their concern to the union or seek enforcement under the provisions of Provincial Health and Safety Legislation.
7. Reprisals will not be taken against any employee who takes actions regarding an unsafe working condition and, the staff will be acknowledged for reporting potential risk. Such staff may be considered for a Risk Management Award.
8. AdvoCare will honor its commitment to accommodate staffs’ needs in keeping with medical directives where such accommodation does not place undue hardship on peers, the company and/or its contract responsibilities.
Please note following related excerpts of Work Safe BC Regulations:

3.9 Remedy without delay
Unsafe or harmful conditions found in the course of an inspection must be remedied without delay.

3.10 Reporting unsafe conditions
Whenever a person observes what appears to be an unsafe or harmful condition or act the person must report it as soon as possible to a supervisory or to the employer, and the person receiving the report must investigate the reported unsafe condition or act and must ensure that any necessary corrective action is taken without delay.

3.11 Emergency Circumstances
If emergency action is required to correct a condition which constitutes an immediate threat to workers only those qualified and properly instructed workers necessary to correct the unsafe condition may be exposed to the hazard, and every possible effort must be made to control the hazard while this is being done.

3.12 Procedure for Refusal

1. A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person.

2. A worker who refuses to carry out a work process or operate a tool, appliance or equipment pursuant to subsection(1) must immediately report the circumstances of the unsafe condition to his or her supervisor or employer.

3. A supervisor or employer receiving a report made under subsection (2) must immediately investigate the matter and
   a. ensure that any unsafe conditions is remedied without delay, or
   b. if in his or her opinion the report is not valid, must so inform the person who made the report.

4. If the procedure under subsection(3) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, the supervisor or employer must investigate the matter in the presence of the worker who made the report and in the presence of
   a. a worker member of the joint committee,
   b. a worker who is selected by a trade union representing the worker, or
   c. if there is no joint committee or the worker is not represented by a trade union, any other reasonably available worker selected by the worker

5. If the investigation under subsection(4) does not resolve the matter and the worker continues to refuse to carry out the work process or operate the tool, appliance or equipment, both the supervisor, or the employer, and the worker must immediately notify an officer, who must investigate the matter without undue delay and issue whatever orders are deemed necessary.

3.13 No Discriminatory Action
1. A worker must not be subject to discriminatory action as defined in section 150 of Part 3 of the *Workers Compensation Act* because the worker has acted in compliance with section 3.12 or with an order made by an officer.

2. Temporary assignment to alternative work at no less in pay to the worker until the matter in section 3.12 is resolved is deemed not to constitute discriminatory action.