

The effect of new legislation on work-related mental disorders

As you are likely aware, new provincial legislation came into effect in July 2012 broadening the scope of WorkSafeBC coverage for mental disorder claims and requiring the development of specific policies related to workplace bullying and harassment. In the year following the legislated changes, 2500 mental disorder claims were filed. This was more than double the number filed the previous year. Of those completed between July 2012 and July 2013, about 600 were accepted, and an equal number were ultimately withdrawn or did not require a decision.

WorkSafeBC disallowed the remainder of the claims, primarily for the following reasons:

The events precipitating the claim were associated with employer decisions about the worker's employment, such as decisions regarding his or her working conditions, workload, performance management, discipline, or termination. The law and related policy make it clear that these factors are excluded as a basis for coverage.

The assessing psychologist or psychiatrist could not diagnose a condition described in the latest *Diagnostic and Statistical Manual of Mental Disorders (DSM)*.

While not associated with the employer decisions described above, the events precipitating the claim did not meet the legal or policy thresholds associated with significant stressors or traumatic events. Typically, the patient reported some conflict with co-workers, managers, or supervisors—but WorkSafeBC could not

equate these behaviors with workplace bullying or harassment or other forms of abusive or threatening behaviors.

Prior to July 2012, WorkSafeBC could only accept such a claim if it determined the worker's mental condition was an acute reaction to a sudden and unexpected traumatic event. However, since the legislative changes, WorkSafeBC can cover a worker's mental disorder if either of the following applies:

The cause is one or more traumatic events arising out of and in the course of employment.

The predominant cause is a significant work-related stressor, including bullying or harassment, arising out of and in the course of employment.

As well, the law says that a psychiatrist or psychologist must diagnose the mental disorder as a condition described in the most recent *DSM*, and the cause cannot be an employer decision about the worker's employment.

Prevention of workplace bullying and harassment

Effective 1 November 2013, a new, enforceable WorkSafeBC policy came into effect that requires every employer in BC to have policies and processes in place to prevent bullying and harassment. The WorkSafeBC policy also creates certain obligations for supervisors and workers to prevent workplace bullying and harassment. For more information, visit worksafebc.com/bullying.

Hypothetical examples

Acceptable claim: A worker reports systematic workplace harassment, including unflattering and obscene comments about him on a worksite bulletin board, avoidance by other workers, exclusion from social gatherings, missing tools, sand, or liquids in his tool box, flattened tires, and a threatening note. This claim would be acceptable because it involves significant stressors that appear to be instances of bullying and harassment.

Unacceptable claim: A retail store manager is having trouble sleeping and concentrating because a district manager is currently reviewing her employment status. While the district manager's behaviors are not abusive or threatening, the worker describes being singled out for biweekly meetings that are tense and unfriendly. The employer reports that meetings with managers are common and necessary to address lagging sales. This claim would not be acceptable because the employer is managing work performance—one of the legislated exclusions.

Your role as the physician

Under the new legislation, your role as the patient's primary caregiver remains unchanged. With support from physicians, psychologists, and other providers, our specialized Mental Health Claims Unit (MHCU) staff assist and support workers with eligible claims. Where a patient presents with a mental disorder that you feel may qualify, please:

- Provide normal treatment.
- Send a Physician's Report (Form 8/11) to WorkSafeBC that includes your working diagnosis.

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Our exams approached quickly, and many of us banded together into study groups scattered in houses and coffee shops across Kelowna. With the help of SMP instructors, tutors, administration staff, and each other we tackled the challenge of our tests, propelling ourselves into our second year of medical school.

Second year and beyond

After enjoying one of our last free summers before the start of our professional lives and busy work schedules, we converged again at UBC Okanagan and Kelowna General Hospital in late August to start second year.

Second year is a lot like the second half of first year. We will be spending the majority of the next 10 months in small-group learning sessions, a lecture hall, family practice office, or clinical skills room. Despite the distance between sites, the curriculum and exams for our program are exactly the same as every other medical program under the UBC banner, ensuring a comparable experience in all the sites. Advancements in online videoconferencing technology and the hard work of our local course directors and coordinators allow us to stay in step with all of our colleagues in the UBC Medicine class of 2016.

Upon the completion of second year the class will be split into several groups to begin our clinically based third year. As it stands, about 24 students will remain in Kelowna to do their clinical clerkship at Kelowna General Hospital for this period. The remaining eight students will head either to the Royal Inland Hospital in Kamloops for a similar rotation-based clerkship program or to one of the many integrated community clerkship sites around the province in places like Chilliwack, Duncan, Terrace, Fort St. John, Trail, and Vernon. Though we may be scat-

tered all over British Columbia, all of us in the class of 2016 will have comparable clinical experiences in family practice and 10 different specialties, as well as electives in which we can pursue areas of special interest. Finally, once we have all passed the same written, oral, and objective structured clinical exams and gained the required competencies, we can progress to fourth year.

During fourth year, like our comrades at the other UBC sites, we will be relocating around the province and country to take part in clinical electives, gaining experience in the areas of medicine we would like to pursue. Eventually, along with medical students from across the country, we will be applying through the Canadian Residency Matching System to secure residency positions at UBC or other Canadian medical schools. To those of us still working through second year (and still figuring out how to memorize the spinal nerve dermatomes), that all seems quite far off! As we work through our curriculum and welcome the class of 2017, the SMP class of 2016 is growing closer and more connected, and as a result we are seeing the program mature as a whole. We are not only learning how to be competent physicians, but also solidifying a culture of camaraderie at UBC's newest extension. I am certain that our efforts will be fruitful and will eventually ensure that the SMP becomes well known for producing engaged, compassionate, and proficient medical leaders to join the physician workforce.

Acknowledgments

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- Ask the worker to call WorkSafeBC at 1 888-WORKERS to file a claim.
- If immediate critical incident support is required, call WorkSafeBC and ask to speak to our critical incident response team.

WorkSafeBC will obtain a psychologist's or psychiatrist's diagnosis as required. Decisions on these types of cases are made in 4 to 6 weeks, but can take longer if a detailed investigation into allegations of bullying or harassment is required. If the claim is accepted, WorkSafeBC's MHCU staff will work with you and arrange for your patient to receive supplemental treatment through a psychologist, psychiatrist, or multidisciplinary program.

To discuss your patient's mental health-related case before or after initiating a report, please call 604 231-8888 or 1 888 967-5377, and speak to a physician in WorkSafeBC's MHCU.

— Joe Pinto
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Program

shared care

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For information on Shared Care Committee initiatives, visit www.sharedcarebc.ca.

— Garey Mazowita, MD
Shared Care Committee member

Additional reading

Araki Y, Lear S. Program evaluation of the PHC Shared Care partnership: Final report. British Columbia Alliance Telehealth Policy and Research, Simon Fraser University. 31 March 2012. (Revised 10 August 2012.)