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April 2, 2020

After making repeated requests to the hospital over the past several weeks, last evening LHSC finally shared the inventory count for surgical masks with face shields and N95 masks. Currently HMMS, which supplies approximately 20 hospitals in our region from Windsor to Woodstock, has on hand:

- Surgical mask with face shield - 5 day supply of
- N95 1870 – 7 day supply
- N95 8210– 11 day supply
- N95 1860 - 37.7 day supply
- 1870 plus no longer available

We asked the employer to share this information with hospital employees however the Executive VP of People and Culture declined to do so, preferring to leave it to the Unions.

We were also advised that HMMS has ordered 500,000 masks, which are currently held at Chinese customs, plus they sourced another 700,000 masks from a new global supplier, but those masks are yet to be produced, and there is concern that American made components for the mask may be restricted for sale within the USA only, so we have no guarantee the company can deliver.

We have spoken with the employer about nurses with personal supplies bringing their own, and they are not supporting that practice at this time, but I expect that practice will change and if I was on the front line I would wear it regardless of how the employer felt.

I cannot understand their rationale for withholding this information, while actively denying the existence of such a critical shortage of PPE. It is unconscionable and a complete failure of Senior Leaders obligation to ensure the safety of LHSC employees.

So where do we go from here? ONA has been advocating for members asking the employer to find new local sources of PPE and/or spend whatever funds are necessary to consider purchasing higher levels of protection such as personal re-usable masks with exchangeable cartridges', or N100's, but at this time we have no concrete responses.

The employer is now forcing nurses to make a decision none want to make: do I provide care for my patient or do I put my safety first. I am hoping we do not reach the point of no PPE, but I cannot support the current practice of re-using a soiled mask. A minimum of 4 masks per shift should be available for each shift, with additional supplied if the mask becomes soiled, damp or difficult to breathe through. If this cannot be provided then you must decide if it's safe to continue to work or do you institute a work refusal because of the unavailability of PPE.

I have attached a document which outlines your right to refuse unsafe work, please review and contact the office if you require our assistance.

James Murray
Bargaining Unit President

COVID-19 Update

March 25, 2020

Attention RN's. Your limited right to refuse unsafe work explained.

Most ONA members have a right to refuse to work where unsafe conditions exist *and* they are not adequately protected through infection control procedures and equipment. Individual circumstances, such as lack of adequate respiratory protection will need to be addressed at the institutional level and the member will need to make a judgment call, weighing the risks against the client's need for care.

During SARS, an ONA member exercised her right to refuse unsafe work when the employer requested she care for a SARS patient without being fitted with the required N95 respirator. The MOL upheld her work refusal and ordered that this worker not be required to care for a SARS patient until she was properly fit tested with an N95 respirator.

Remember, **to refuse unsafe work a worker need only have reason to believe that their work or a particular task may endanger themselves or another worker.** The test at this stage is subjective and the worker's belief need only be honest and genuine.

Steps to Follow in Refusing Work

First Stage:

- You must immediately tell your leader that the work is being refused and explain why. You should document all of the details pertaining to the work refusal. **Complete an AEMs, per LHSC Work Refusal Policy.**
- The employer must investigate the situation immediately, in your presence and a JHSC member who represents workers, or another worker chosen by the union.
- You must remain in a safe place that is as near as reasonably possible to the workstation and available to the employer for the purposes of the investigation until the investigation is completed. **(No other worker shall be assigned to do the work that has been refused unless, in the presence of a JHSC worker member who, if possible, is a certified member, or another worker chosen by the union has been advised of the other worker's refusal and of their reasons for the refusal.)** If the situation is resolved at this point, the refusing worker returns to work.
- Following the investigation, you can continue to refuse the work if you have reasonable grounds for still believing that the work continues to be unsafe.

***When work refusal reaches "second stage"**

When you exercise your right to refuse unsafe work, the employer must immediately investigate in your presence and a JHSC worker member. If the concern is not resolved and you have reasonable grounds to believe that the work continues to be unsafe, you can continue to refuse. At this "second stage" of the refusal, the MOL must be notified.

Second Stage:

- You, the union or employer must cause an MOL inspector to be notified). The inspector should come to the workplace to investigate the refusal and consult with you and the employer. The worker representative from the first stage will also be consulted as part of the inspector's investigation.
- While waiting for the inspector's investigation to be completed, you must remain during your normal working hours in a safe place that is as near as reasonably possible to the workstation, and available to the inspector for the purposes of the investigation, unless, subject to the provisions of a collective agreement, the employer assigns some other reasonable work during normal working hours. If no such work is practicable, the employer can give other directions to the worker.

- The inspector must decide whether the work is likely to endanger you or another person. The inspector's decision must be given, in writing, to the worker, the employer and the worker representative identified above, if there is one. If the inspector finds that the work is not likely to endanger anyone, you would normally return to work. If you

Worker to Suffer no Reprisals for Calling the MOL

The *Occupational Health and Safety Act* has a section (50) that is intended to protect you from reprisals by your employer when you obey the law or exercise your rights. The Ministry of Labour website says you also cannot be penalized if you provide information to a MOL inspector, follow an order of an inspector, or testify in a legal proceeding. If you think you or your members have suffered a reprisal, you or your members can file a complaint to the Ontario Labour Relations Board (OLRB) or file a grievance. The employer has the onus to prove that they did not act illegally.

The Regulatory College and Unsafe Working Conditions

Nurses must consider their standards of practice established by the CNO. The CNO has two key standards and one practice guideline that are relevant in this context, namely the Professional Standards (2002), Ethics (2018), and Refusing Assignments and Discontinuing Services (2017). Refusing Assignments and Discontinuing Services was developed by the CNO in response to SARS. **The CNO's position at the conclusion of SARS was that, while nurses are committed to meeting the needs of clients, the provision of professional nursing services does not include working in situations where nurses' health is at risk and no precautions have been taken.**

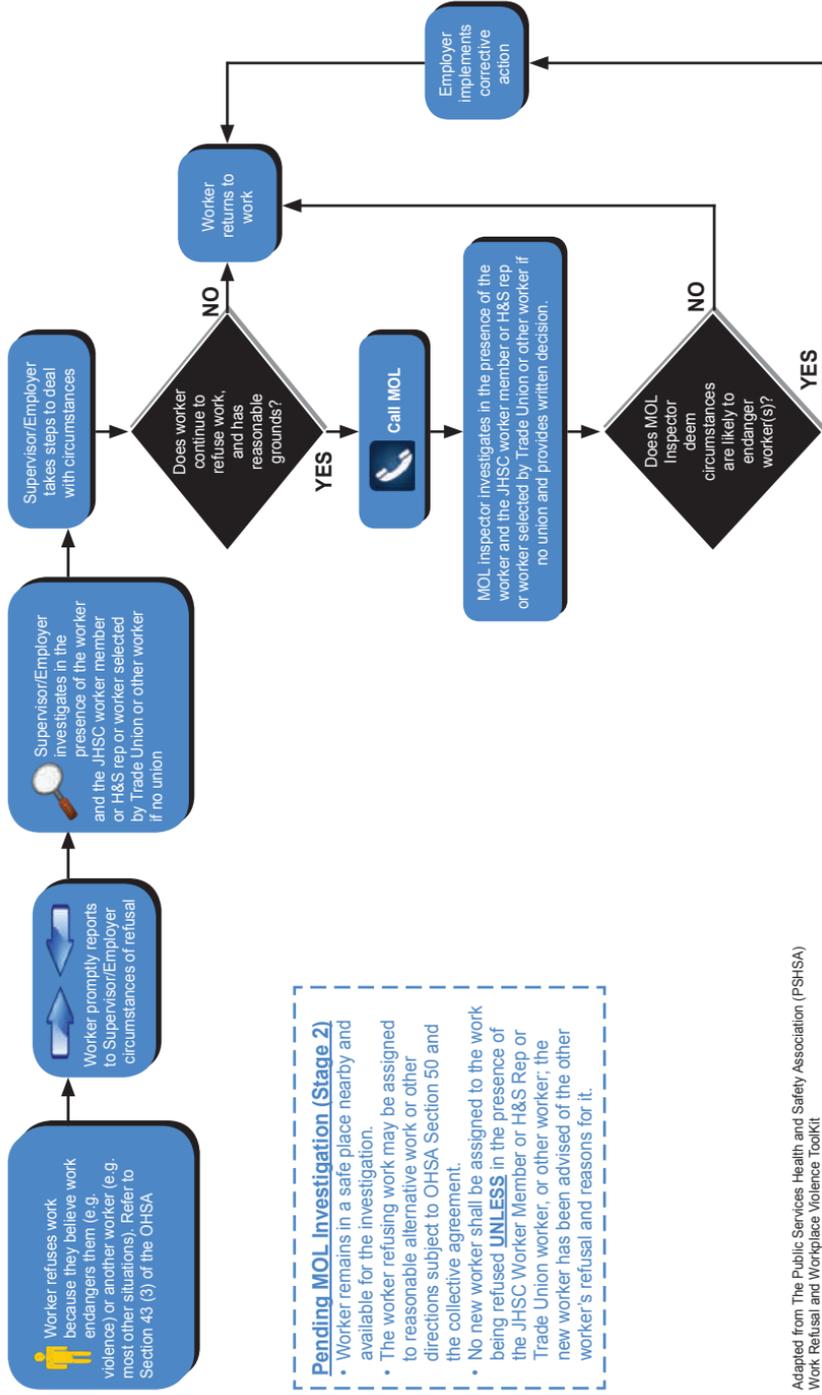
If you are considering a work refusal, please contact the Local Office for assistance. Check out ONA's booklet "My Right To Refuse Unsafe Work" at:

https://www.ona.org/wpcontent/uploads/ona_guide_myrighttorefuseunsafework.pdf

519-667-0937



Appendix 4 Work Refusal Flowchart



Pending MOL Investigation (Stage 2)

- Worker remains in a safe place nearby and available for the investigation.
- The worker refusing work may be assigned to reasonable alternative work or other directions subject to OHS Section 50 and the collective agreement.
- No new worker shall be assigned to the work being refused **UNLESS** in the presence of the JHSC Worker Member or H&S Rep or Trade Union worker, or other worker, the new worker has been advised of the other worker's refusal and reasons for it.