

 <p>Winnipeg Regional Health Authority Office régional de la santé de Winnipeg Caring for Health À l'écoute de notre santé</p> <p style="text-align: center;">POLICY</p>	<p>REGIONAL</p> <p>Applicable to all WRHA governed sites and facilities (including hospitals and personal care homes), and all funded hospitals and personal care homes. All other funded entities are excluded unless set out within a particular Service Purchase Agreement.</p>		Level: 1
	Policy Name: Right to Refuse Dangerous Work	Policy Number: 20.20.060	Page 1 of 7
	Approval Signature: <i>Signed by Jane MacKay</i>	Section: Human Resources: Workplace Safety & Health	
	Date: November 2023	Supercedes: NEW	

1.0 PURPOSE

- 1.1 In keeping with the Winnipeg Regional Health Authority's commitment to providing a safe and healthy workplace as noted in the Winnipeg Regional Health Authority 'Workplace Safety and Health' policy (20.20.030), the following Policy has been developed to ensure that all Workers have the Right to Refuse Dangerous Work at a workplace if they believe on reasonable grounds that the work constitutes a danger to their safety or health or to the safety or health of another Worker or another person.
- 1.2 This document informs Workers of their rights and responsibilities respecting the process.
- 1.3 This policy is also designed to ensure that when followed the minimum requirements of Manitoba Workplace Safety and Health legislation is complied with and where possible exceeded.
- 1.4 As with all matters relating to the Safety and Health of Workers the Workplace Safety and Health Committee should be consulted for their input.

2.0 DEFINITIONS

- 2.1 The Act: The Workplace Safety and Health Act W210 of Manitoba.
- 2.2 Committee: a workplace (occupational) safety and health Committee established under section 40 of the Workplace Safety and Health Act.
- 2.3 Dangerous Work: "Dangerous" work generally means work involving safety and health risks that are not normal for the job.
- 2.4 Director: the person administratively responsible for the department or unit. Director includes heads of departments.
- 2.5 Employer:
 - 2.5.1 Every person who, by themselves or their agent or representative employs or engages one or more Workers,
 - 2.5.2 and The Crown and every agency of the government.

- 2.6 Reprisal: Any act or omission by an Employer or any person acting under the authority of the Employer or any union which adversely affects any term or condition of employment, or of membership in a union, and without restricting the generality of the foregoing includes lay-off, suspension, dismissal, loss of opportunity for promotion, demotion, transfer of duties, change of location of workplace, reduction in wages, or change in working hours but does not include the temporary relocation of a Worker to other similar or equivalent work without loss of pay or benefits until a condition that threatens the safety or health of the Worker is remedied.
- 2.7 Reprisals Against Worker Prohibited: No Employer, union or person acting on behalf of an Employer or union shall take or threaten Reprisal against a Worker for refusing to do dangerous work under section 43. (Workplace Safety and Health Act, Section 42: 1).
- 2.8 Right to Refuse Dangerous Work: Subject to this section, a Worker may refuse to work or do particular work at a workplace if they believe on reasonable grounds that the work constitutes a danger to their safety or health or to the safety or health of another Worker or another person. (Workplace Safety and Health Act, Section 43: 1).
- 2.9 Safety and Health Officer: a person designated as a Safety and Health Officer under the Workplace Safety and Health Act.
- 2.10 Supervisor: a person who has charge of a workplace or authority over a Worker.
- 2.11 Worker:
- 2.11.1 Any person who is employed by an Employer to perform a service whether for gain or reward, or hope of gain or reward or not.
 - 2.11.2 Any person engaged by another person to perform services, whether under a contract of employment or not
 - 2.11.3 Any person undergoing training or serving an apprenticeship at an education institution or at any other place.

3.0 **POLICY**

Right to Refuse Dangerous Work applies to those situations where a Worker believes a task or assignment is dangerous for themselves or others. “Dangerous” work generally means: work involving safety and health risks that are not normal for the job and will cause immediate and serious or long-term effects on your safety and health or the safety and health of others. The Right to Refuse Dangerous Work is one of the legislated Worker rights. When a Worker exercises the Right to Refuse Dangerous Work, they are protected in terms of their employment, wages and benefits. Every effort shall be made to resolve concerns as quickly as possible.

4.0 **PROCEDURE**

The Right to Refuse Dangerous Work steps are based on the Workplace Safety and Health Act Section 43: See Appendix B attached algorithm for guidelines on the process.

Occupational and Environmental Safety & Health may be contacted at any time for consultation during this process.

- 4.1 Report and Resolution of Safety Concerns must be followed before a Right to Refuse Dangerous Work is initiated. This does not preclude anyone from contacting the Workplace Safety and Health Branch for guidance at any stage in the process.
- 4.1.1 The Worker expresses a safety concern to their Supervisor.

- 4.1.2 The Supervisor shall make every effort to resolve the safety and health concern immediately/in a timely manner.
- 4.1.3 If the concern is not resolved through the Report and Resolution of Safety Concerns Process, or the reporting Worker feels on reasonable grounds that the issue still presents a dangerous condition, the Worker may initiate the Right to Refuse Dangerous Work Process.
- 4.2 Right to Refuse Dangerous Work Report Form: In all cases of refusals, the process will be documented on a Right to Refuse Dangerous Work Report Form (Appendix A) by the affected Supervisor/manager. A copy of the completed form:
 - 4.2.1.1 Should be stored on the Worker file;
 - 4.2.1.2 Must be provided to Occupational and Environmental Safety & Health;
 - 4.2.1.3 Must be provided to the site Workplace Safety and Health Committee. Personal information should be removed.
- 4.3 The Right to Refuse Dangerous Work process begins – Step 1:
 - 4.3.1 The Worker advises the Supervisor that they will be exercising the Right to Refuse Dangerous work and explains the reasons. This can be accomplished by
 - 4.3.1.1 Refusing Worker completes initial section of Right to Refuse Dangerous Work Report Form immediately.
 - 4.3.1.2 Refusing Worker emails reason for refusal to Supervisor. Supervisor completes Part 1 of Form based on email and attaches the refusing Worker's email to the Form.
 - 4.3.1.3 Refusing Workers gives reason for refusal to Supervisor via telephone. Supervisor writes down and reads reasons back to refusing Worker. Refusing Worker agrees that information can be placed in Part 1 of form.
 - 4.3.2 The Supervisor immediately notifies Occupational and Environmental Safety & Health that a Right to Refuse Dangerous Work has been initiated. *Note: This is notification only – it is the responsibility of the Supervisor to attempt to resolve the Right to Refuse Dangerous Work at Step 1.*
 - 4.3.3 The Supervisor immediately inspects and/or investigates the dangerous condition and tries to resolve the situation.
 - 4.3.4 The Worker must remain available and will be assigned to do other work.
 - 4.3.5 If the Worker feels that the dangerous condition has been remedied then the Right to Refuse Dangerous Work Report Form is closed. The Supervisor and Worker complete the Right to Refuse Dangerous Work Report Form as per 4.2 above.
 - 4.3.6 If the dangerous condition has not been remedied then the Right to Refuse Dangerous Work progresses to Step 2 immediately. Note: another Worker cannot be assigned until Step 2 has been completed.
- 4.4 The Right to Refuse Dangerous Work Process – Step 2:
 - 4.4.1 Notification that the Right to Refuse Dangerous Work has progressed to Step 2 will be done by the Supervisor by immediately notifying:
 - 4.4.1.1 Occupational and Environmental Safety & Health;
 - 4.4.1.2 Program/Department/Team Manager or designate.

- 4.4.1.3 The Safety Committee Worker Co-Chair or if not available then
 - 4.4.1.3.1 A Safety Committee member representing the Worker or if not available then;
 - 4.4.1.3.2 A Worker chosen by the refusing Worker.
- 4.4.2 The Employer shall not request or assign another Worker to perform the refused work or task unless
 - 4.4.2.1 The Employer has advised the other Worker, in writing (omitting any information protected under PHIA), of
 - 4.4.2.1.1 The first Worker's refusal,
 - 4.4.2.1.2 The reasons for the refusal,
 - 4.4.2.1.3 The other Worker's right to refuse dangerous work,
 - 4.4.2.1.4 The reason why, in the opinion of the Employer, the work does not constitute a danger to the safety or health of the other Worker, another Worker, or any person; and
 - 4.4.2.2 Where practicable, the first Worker has advised the other Worker of the first Worker's refusal and reasons for the refusal.
- 4.4.3 This can be accomplished by:
 - 4.4.3.1 The Supervisor
 - 4.4.3.1.1 Shows or emails the form to the other Worker,
 - 4.4.3.1.2 Where advising in writing is not reasonably practicable, the Employer may advise the other Workers verbally, provided it is also followed up and communicated through email and attached to the form.
 - 4.4.3.2 Where practicable, Workers speak to each other directly (face to face, phone, etc.).
- 4.4.4 The Supervisor shall perform an inspection/investigation of the dangerous condition in the company of a person representing the Worker selected in the following order:
 - 4.4.4.1 The Safety Committee Worker Co-Chair; if not available then,
 - 4.4.4.2 A Safety Committee member representing the Worker: if not available then,
 - 4.4.4.3 A worker chosen by the refusing Worker.
- 4.4.5 Following the inspection/investigation, the Supervisor will take action to remedy the dangerous condition if it has been determined that a dangerous condition still exists.
- 4.4.6 The Supervisor will ensure that details of the inspection/investigation and action taken where determined appropriate will be detailed on the Right to Refuse Dangerous Work Report Form. If, in the opinion of the Employer, the work does not constitute a danger, this must be detailed on the form.
- 4.4.7 If the Worker feels that the dangerous condition has been remedied then the Right to Refuse Dangerous Work Report Form is closed. The Supervisor and Worker complete the Right to Refuse Dangerous Report Form as per 3.2 above.

- 4.4.8 The Worker may continue to refuse the work until the dangerous condition is remedied. The Worker must remain available and will be assigned to do other work. If alternate work is not available, the Worker is entitled to the same wages and benefits that they would have received had the Worker continued to work.
- 4.5 The Right to Refuse Dangerous Work Process – Step 3:
 - 4.5.1 If after 4.4 (Step 2), the Worker continues to refuse, any of the members present during the investigation/inspection may contact a Safety and Health Officer, Province of Manitoba - Workplace Safety and Health Branch to request an investigation at 204-957-7233 or toll free 1-855-957-7233.
 - 4.5.2 The Safety and Health Officer will investigate the refusal.
 - 4.5.2.1 If the Safety and Health Officer decides the work/task is unsafe, they will make a written report and issue an Improvement Order and/or a Stop Work Order, with copies to:
 - 4.5.2.1.1 The Worker who refused the work,
 - 4.5.2.1.2 The Employer,
 - 4.5.2.1.3 The Worker and Employer co-chairs, of the safety Committee.
 - 4.5.2.2 If the Safety and Health Officer determines the work is safe, they will, in writing:
 - 4.5.2.2.1 Inform the Employer and Worker of the decision,
 - 4.5.2.2.2 Inform the Worker that they are no longer entitled to refuse the task or work.
 - 4.5.3 The final determination of safety of the task can only be given by a Workplace Safety and Health Officer of the Workplace Safety and Health (WSH) Branch.
Note: the decision can be appealed.

The refusing Worker may appeal the Safety and Health Officer's decision to the Director of the Workplace Safety and Health Branch of the Province of Manitoba within 14 days after the date of the Order or Decision or within any further period that the Director may allow. The Director will make a decision about the appeal and provide written reasons. The decision of the Director may be appealed to the Manitoba Labour Board within 14 days after the date of the Appeal Decision or within any further period that the Board may allow. During the appeal process, the refusing Worker is not entitled to be paid for the hours they are not working.

5.0 RESPONSIBILITIES

- 5.1 Employer/Facility/Program Executive Team:
 - 5.1.1 Act in accordance with the objects and purposes of the Act by ensuring, so far as is reasonably practicable, the safety, health and welfare at work of all their Workers, and complying with the Act and regulations.
 - 5.1.2 Ensure that all their Workers, and particularly his Supervisors, or similar persons, are acquainted with any safety or health hazards which may be encountered by the Workers in the course of their service, and that Workers are familiar with the use of all devices or equipment provided for their protection
 - 5.1.3 Assign responsibilities to Workers within the facility/program to ensure the implementation of this policy.

- 5.1.4 Ensure resources (information, training, tool, equipment and time) are available to provide / maintain 4.2.1
- 5.1.5 Support the Policy throughout the Winnipeg Regional Health Authority.
- 5.2 Directors/Managers/Supervisors:
 - 5.2.1 Ensure compliance with all aspects of the legislation and this policy.
 - 5.2.2 Ensure the Occupational and Environmental Safety and Health department is involved to offer guidance throughout the process.
 - 5.2.3 Ensure the Workplace Safety and Health Committee Worker co-chair or representative will make reasonable effort to attend any work refusal investigation, in order to provide assistance in resolving the safety and/or health concern in a timely manner.
 - 5.2.4 Ensure the Right to Refuse Dangerous Work is documented on the Right to Refuse Dangerous Work Report Form.
- 5.3 Worker:
 - 5.3.1 Report all safety concerns/hazards to their direct Supervisor following the Report and Resolution of Safety Concerns Policy.
 - 5.3.2 Follow the Right to Refuse Dangerous Work steps as outlined in this Policy.
- 5.4 Workplace Safety and Health Committees:
 - 5.4.1 Consult with the facility/site/program on the development and implementation of this policy.
 - 5.4.2 Review and monitor the effectiveness of this policy.
 - 5.4.3 The Worker co-chair or designate will attend any work refusal investigation immediately, in order to provide assistance in resolving the safety and/or health concern in a timely manner.
- 5.5 Occupational and Environmental Safety and Health:
 - 5.5.1 Consult with the facility/site/program on all aspects of this policy.
 - 5.5.2 Provide statistics related to Right to Refuse Dangerous Work process to Health and Safety Committees on a regular basis.
 - 5.5.3 Ensure the Occupational and Environmental Safety and Health department is involved to offer guidance throughout the process.

6.0 TRAINING REQUIREMENTS

- 6.1 The training program must be workplace specific, effective and updated when changes which may affect the procedure are introduced in the workplace.
- 6.2 Training must involve understanding of rights and responsibilities related to the Right to Refuse Dangerous Work.
- 6.3 All Workers need to be informed of this right at the time of orientation.
- 6.4 All Supervisors and Workplace Safety and Health Committee members must receive this training.
- 6.5 All training must be documented. Records must be retained as required by the Workplace Safety and Health Act and Regulations.

6.6 Retraining will be offered if necessary or upon request.

7.0 REFERENCES:

- 7.1 Consolidated WSH Act and Regulation – Growth Enterprise and Trade
https://www.gov.mb.ca/labour/safety/pdf/whs_workplace_safety_act_and_regs.pdf
- 7.2 Bulletin 193 Right to Refuse Dangerous Work
<https://www.safemanitoba.com/Resources/Pages/bulletin-193.aspx>
- 7.3 [Reporting and Resolving Safety Concern \(wrha.mb.ca\)](http://wrha.mb.ca) – Report and Resolution of Safety Concerns.

8.0 APPENDIX:

- 8.1 [Appendix A: Right to Refuse Dangerous Work Report Form](#)
- 8.2 [Appendix B: Right to Refuse Dangerous Work Algorithm](#)

POLICY CONTACT

Provincial Workplace Safety & Health Working Group with representation from

- Executive Sponsor – Provincial Human Resources Leadership Council
- CancerCare Manitoba
- Interlake-Eastern Regional Health Authority
- Manitoba Health, Seniors and Active Living
- Northern Health Region
- Prairie Mountain Health
- Provincial Health Labour Relations Services
- Shared Health Manitoba
- Southern Health
- Winnipeg Regional Health Authority

This is a standard provincial policy that can only be changed with the approval of the Provincial Human Resources Leadership Council