Replaced by PD#C12-8 January 19, 2022

PRACTICE DIRECTIVE #C12-8

TOPIC: **Managing Claims of Psychologically Vulnerable Workers**

ISSUE DATE: **October 24, 2008, Amended May 19, 2021 and December 30, 2021**

Objective

This Practice Directive provides guidance to WorkSafeBC officers on managing claims of psychologically vulnerable workers. It provides particular guidance on communicating decisions and information to a worker who is at risk for suicide, monitoring of claims during the appellate process, and involving WorkSafeBC clinicians.

Practice Guidelines

(1) Identifying Workers at Risk for Suicide or Who are Psychologically Vulnerable

Officers exercise caution in communicating information[1] or decisions to a worker who is at risk for suicide[2]. Similarly, caution is exercised in communicating with workers who are not at risk of suicide but who are psychologically vulnerable. The goals are to minimize the possibility of psychological deterioration and to have resources and/or supports in place for the worker, particularly where the worker has an identified mental illness.

WorkSafeBC recognizes that in some cases there will be no sign that a worker is at risk for suicide or psychologically vulnerable. However, the idea is to have processes in place so that where a claim file includes information that causes a WorkSafeBC employee to be concerned, extra steps are taken to ensure the worker's claim is given the attention it requires.

Information on how to recognize a worker who is at risk for suicide is found on the home page of WSN under "Corporate" and the link "Suicide Risk Response."

[1] Where a worker is at risk for suicide, even relatively insignificant contact with WorkSafeBC may have a negative impact on the worker's psychological condition. In other cases, contact with WorkSafeBC may be fine generally but certain decisions (e.g., decision that deny, reduce or suspend benefits or decisions that fail to meet the worker's expectations) may cause a negative reaction.

[2] A suicide risk can be verbal or written. It can be direct, indirect, or expressed as feelings of extreme hopelessness or helplessness.

Where an officer recognizes that a risk or threat of suicide exists, the officer documents the incident on the claim and submits a threat report electronically, through the "Forms" page on WSN as soon as practicable. *Practice Directive #C12-9. Responding to a Risk or Threat of Suicide,* provides guidance on how to respond to a worker who is at risk for suicide or threatens suicide.

A worker does not have to have a diagnosed or compensable psychological condition to be considered at risk for suicide or psychologically vulnerable. If an officer has concerns about the worker's wellbeing but is unsure whether a worker is at risk for suicide, the officer seeks advice from a psychology advisor or other clinical advisor[3].

WorkSafeBC officers will need to use their judgment to identify "psychologically vulnerable" workers. There is no test to employ to determine if a worker is psychologically vulnerable. However, there are various factors which officers may wish to consider when evaluating a worker's psychological vulnerability. The following "red flags" may be, but are not necessarily, an indication of psychological fragility. This list is not meant to be exhaustive and an officer's experience and impression of a worker's psychological state should not be discounted.

- The worker complains of significant chronic pain and has had no success developing coping skills through participation in a pain program or other treatment.
- The worker has been off work for a significant period of time past the anticipated return to work date.
- The worker has a diagnosed mental illness, compensable or non-compensable.
- The worker has substance addiction issues, or has had such issues in the past.
- The worker has had a significant number of long-term or complex WorkSafeBC claims in the past.
- The worker has made suicidal or other threats.
- The worker is facing significant external stressors such as financial pressures or family breakdown.

Where an officer believes a worker may be psychologically vulnerable, the officer will, in every case, call a team meeting with mandatory attendance by a WorkSafeBC psychology advisor and optional attendance by a medical advisor. The team meeting group will decide whether the worker is currently

[3] Clinical advisor refers to a medical advisor or psychology advisor.

psychologically vulnerable and develop a formal plan for managing the claim. The officer, WorkSafeBC psychology advisor or medical advisor can call further team meetings as they deem necessary for successful ongoing management of the claim.

(2) Involvement of WorkSafeBC Clinicians

Managing claims of workers at risk of suicide or who are psychologically vulnerable will inevitably require more extensive involvement of WorkSafeBC clinical staff than other claims. Involving psychology advisors and/or medical advisors will enable officers to make quality adjudicative decisions based on a more complete picture of the worker's medical condition(s) and will ensure workers are receiving adequate and appropriate treatment.

Psychology advisors and medical advisors also provide a communication link to the worker's treating physician and/or specialist(s). Prior to a psychology advisor or medical advisor giving an opinion that an officer will rely on in making a significant claims decision, the WorkSafeBC clinician will consult with the worker's physician and/or specialist. This gives the WorkSafeBC clinician an opportunity to hear any additional information that could alter their medical opinion.

For example, medical reports received on a file may give some indication that a worker is suffering from depressive symptoms. At first glance the worker's depressive symptoms may not appear to be related to the compensable injury or incident. However, by way of conversation with the worker's family physician, the WorkSafeBC clinician may learn that, although the worker had previously suffered from depression, the worker had not had symptoms for many years prior to the compensable injury, and that a fairly strong causal link exists between the worker's compensable injury and current depressive symptoms. The additional information gathered in the phone consultation would likely affect the medical opinion the clinician gives to the claim owner regarding the acceptability of a temporary aggravation of the worker's depression or what treatment should be covered under the claim.

(3) Conducting Surveillance on Psychologically Vulnerable Workers

It is often upsetting to workers who suffer emotional distress related to their injuries to learn that WorkSafeBC has conducted surveillance of them. In determining whether to request surveillance on a worker at risk for suicide or who is psychologically vulnerable, the officer carefully weighs the potential impact of surveillance on the worker's psychological condition against the usefulness of surveillance and the availability of other investigative tools. Surveillance is not requested for workers who are at risk of self-harm or have significant psychological conditions. In the case of a worker with psychological vulnerability, the WorkSafeBC officer will have a psychology advisor or medical advisor

consult with the worker's physician and/or specialist prior to the officer requesting surveillance. The consultation is done in order to assess the impact surveillance might have on the worker's mental health. Practice Directive #C12-7, *Surveillance and Other Evidence*, provides guidance on these issues as well as on communicating surveillance results to a worker with psychological vulnerability.

(4) Communicating Decisions to Psychologically Vulnerable Workers

The best way to communicate a decision or information to a worker at risk for suicide, or who is psychologically vulnerable, will depend on the situation. The officer considers the following factors and may wish to consult with their manager, a psychology advisor or other clinical advisor.

(a) Who communicates with the worker?

The most suitable person(s) to communicate with the worker may be one, or a team consisting, of:

- the officer making the decision
- a WorkSafeBC clinical advisor (i.e., medical advisor or psychology advisor)
- a different officer who has developed a positive rapport with the worker
- a WorkSafeBC manager
- the worker's authorized representative on compensation matters.

In identifying the most appropriate person(s) to communicate with the worker, the officer and their manager consider the individual(s)' history and relationship with the worker. Generally, decisions are communicated to the worker by the officer who has made the decision. However, this may not always be the case. For example, an officer in Burnaby arranges an in-person meeting at the WorkSafeBC office in Richmond involving the client services manager, the psychology advisor and the worker. The meeting is held in a secure environment and in close proximity to medical facilities (i.e. Richmond hospital) in case immediate access to emergency services proves necessary.

Where the worker's representative is identified as the most appropriate person to communicate the decision or information, the officer will request the representative's involvement. For example, a worker reacts negatively to any communication from WorkSafeBC to the point that any contact with WorkSafeBC may bring on an emotional crisis. An officer needs to arrange for the worker to attend a medical examination for permanent disability benefits entitlement purposes. The officer contacts the worker's spouse (the authorized representative) to request that the spouse communicate the request to the worker in person. The officer makes the necessary arrangements with the spouse for the worker's attendance at the appointment. The officer follows up

with the spouse after the appointment to enquire about the worker's well being and to ensure that supports are in place should the worker require assistance (i.e., may request psychology advisor to consult with the worker's treating clinician if the worker has reacted badly to the appointment).

If the worker's representative does not wish to communicate the decision or information, the officer will determine an alternative suitable person.

Officers should be careful not to put the worker's representative in a position where the representative has to justify WorkSafeBC adjudicative decisions. Where the representative assists WorkSafeBC in delivering a decision to a worker, their role is limited to communicating the decision.

(b) Involving a Worker's Treating Physician(s) to Support the Worker

In most cases, officers will wish to involve the worker's treating physician and/or specialist(s) (i.e., family doctor, psychologist, psychiatrist, counselor, etc.) to provide support to the worker as the officer communicates with the worker. The officer may wish to ask the medical advisor or psychology advisor to contact the treating clinician to request their involvement.

The medical advisor or psychology advisor may seek advice from the worker's treating physician and/or specialist(s) regarding whether the physician or specialist wishes to set up a follow-up visit with the worker shortly after the decision is communicated or set up a visit with the worker prior to the officer communicating the decision in an effort to determine the worker's state of mind.

WorkSafeBC has obligations to protect the worker's privacy under the *Freedom of Information and Protection of Privacy Act*. Treating clinicians are provided information about the worker on a "need to know" basis. This means that WorkSafeBC can advise the treating clinician about the need to communicate a decision or information and its concern about the worker's psychological reaction but not the content of the decision.[4] For example, an officer may arrange to communicate a decision to the worker by telephone while the worker is at their doctor's office. The officer, through the medical advisor, will have made arrangements with the doctor ahead of time to have the worker in the doctor's office to receive the decision verbally. The officer does not reveal the substance of the decision to the doctor. The worker's doctor is available to provide support if the worker becomes emotionally distressed.

[4] The content of the decision may be provided to the treating clinician where the clinician is the authorized representative for the worker or where the worker has previously consented to disclosure of this information to the clinician.

Where a treating physician or specialist assists WorkSafeBC in delivering a decision to a worker, their role is limited to facilitating the communication piece. They should not be placed in a position of having to justify the decision.

In rare situations (e.g., a worker with suspected psychosis), the officer may determine that the most suitable person to communicate a decision or information to the worker is the worker's treating clinician. If the officer does not have consent from the worker to release the information or decision to the clinician, the officer has to contact the Freedom of Information and Protection of Privacy coordinator prior to initiating the communication.[5]

(c) How is the decision or information communicated?

Where the officer anticipates that the worker may require medical assistance after being informed of the decision, the officer seeks assistance from a WorkSafeBC clinician to arrange support for the worker **prior** to communicating the decision.

Officers are encouraged to communicate with psychologically vulnerable workers in person, particularly in the case of decisions that may have a negative impact on the worker. It is important that the decision is personally delivered and explained to the worker and that it is presented in a manner that is clear and easily understood. Decision letters that deny, reduce or suspend benefits are not sent to the worker until the officer has actually spoken with the worker or the worker's representative about the decision.

Every effort is made to communicate the decision to the worker or the worker's representative before communicating the decision, either verbally or in writing, to other affected parties (i.e., employer or provider). If the officer is unsuccessful in communicating with the worker or their representative, the officer consults with their manager. The manager ensures that all reasonable steps have been taken to inform the worker of the decision prior to communicating it to other affected parties.

Where the worker has difficulty understanding English, or where the officer has difficulty understanding the worker because English is not the worker's first language, the officer should consider arranging for translation services.

Where the decision to be communicated is adverse to the worker, the officer may wish to reassure the worker of other entitlements that remain unchanged. For example, the decision to be communicated may be to not pay for further massage therapy treatment. The officer may wish to emphasize that the worker's

[5] The coordinator determines if compelling circumstances exist that would harm the worker's health or safety which would allow for the disclosure of the information/decision to the treating clinician.

existing entitlement to wage-loss benefits, medication expenses and counseling treatments remains unchanged. The officer also identifies possible next steps for the worker such as review/appeal rights, the services of the Workers' Advisers Office, and medical employment insurance. The WorkSafeBC clinical advisor may identify any relevant community resources that are available to the worker.

(5) Monitoring Psychologically Vulnerable Workers during the Appellate Process

Workers who are psychologically vulnerable often benefit from extra care and attention being directed into the managing of their claims. An example of when extra care may prove beneficial is during the time period when a psychologically vulnerable worker is participating in a review by the Review Division or an appeal by WCAT. Workers who are psychologically vulnerable can find the appellate process to be stressful and there is a risk of the worker's psychological condition deteriorating as a result.

Where there are no claims issues requiring active management during this time, the claim owner will monitor the claim for any deterioration in the worker's mental health. Monitoring the claim will involve the claim owner checking in with the worker every month, or more often if the officer deems it necessary. Depending on the worker's circumstances, monitoring may also involve a psychology advisor or a medical advisor consulting with the worker's treating physician or specialist.

If an officer becomes aware that a worker's psychological condition is worsening, the officer will refer the claim to the psychology advisor, who in turn consults with the worker's treating physician or specialist(s). The claim owner can then use the information gathered to address any outstanding issues regarding medical treatment or additional support the worker may require.

CROSS REFERENCES: See also *Practice Directive C12-7, Surveillance and Other Evidence, Practice Directive C12-9, Responding to a Risk or Threat of Suicide* and *Practice Directive C10-2, Suspensions*.

HISTORY: This Practice Directive was amended on March 29, 2010 to include additional information on identifying psychologically vulnerable workers, involving WorkSafeBC clinicians in managing these claims, and adding the requirement for monitoring such claims while the worker participates in the appellate process. This Practice Directive was amended to reflect changes made to the Workers Compensation Act made effective on April 6, 2020 as part of a standard statute revision process. On May 3, 2021, section (4)(c) of this Practice Directive was amended to include direction on communicating decisions to the worker before other affected parties. The Practice Directive was amended on May 19, 2021 to change the term "psychologically fragile" to "psychologically vulnerable", in

keeping with current language. This Practice Directive was updated on December 30, 2021 to reflect changes in WorkSafeBC's organizational structure.

APPLICATION: This Practice Directive updates and clarifies current practice.