**INTRODUCTION**

All Thunder Bay Regional Health Research Institute (TBRHRI) employees/students have the responsibility and right to report any safety hazard or dangerous circumstance that exists in the workplace, as well as to declare a “work refusal”, as defined under the Occupational Health and Safety Act (the “Act”).

Section 43 of the Occupational Health and Safety Act provides each worker the right to refuse work where he/she has reason to believe that:

* *Any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker*
* *The physical condition of the workplace or part thereof in which he or she works or is to work is likely to endanger the worker*
* *workplace violence is likely to endanger himself or herself*
* *Any equipment, machine, or tool that the worker is using, or the physical condition of the workplace, contravenes the Act or regulations and is likely to endanger himself or herself or another worker*

Work refusals can be avoided with a workplace commitment to health and safety, advising workers of hazards, providing safety training, and keeping the lines of communication open to encourage an atmosphere where workers feel free to raise health and safety concerns at any time, knowing supervisors and management will treat them seriously, and without reprisal.

**POLICY**

It is the policy of TBRHRI, through the JHSC, to implement a reporting procedure to resolve health and safety concerns and eliminate the possibility of injury due to hazards that have not been identified or addressed. It is the goal that hazards will be identified and addressed before a work refusal could precipitate.

**ROLES AND RESPONSIBILITIES**

Section 28(c) and (d) of the Occupational Health and Safety Act requires that a worker shall:

* *Report to his or her employer or supervisor the absence of, or defect in, any equipment or protective device of which the worker is aware and which may endanger himself, herself or another worker; and*
* *Report to his or her supervisor any contravention of the Act or the regulations or the existence of any hazard of which he or she knows*

Section 27(2) (c) states that *a supervisor* *shall take every precaution reasonable in the circumstances for the protection of a worker*.

In regards to hazardous reporting, the worker will:

* *Report any perceived hazard verbally to their supervisor;*
* *Provide recommendations to the supervisor on how to eliminate or control the hazard;*
* *If the supervisor does not respond to the concern, it should be elevated to a JHSC representative.*

Therefore, prior to refusing work, a worker who identifies a concern with respect to a potential safety hazard must immediately bring it to the attention of his/her supervisor and together they should try to resolve the concern, utilizing the principles of the Internal Responsibility System.

If the worker and the supervisor are unable to resolve the concern, then the worker can exercise his/her right to refuse work under section 43 of the Act and the procedures below should be followed.

**PROCEDURES**

**Workplace Hazard Reporting:**

In regards to the reporting of a workplace hazard, the supervisor will:

* Discuss the hazard and controls with the worker and complete the Hazard Identification Form;
* Respond to the worker’s concern by the next day;
* Ensure that the form details the action or non-action which will be taken;
* Provide a copy of the completed Hazard Identification Form to Human Resources.

**First Stage Work Refusal:**

The worker must immediately tell the supervisor/employer that work is being refused and explain why. The supervisor/employer must investigate the situation immediately, in the presence of the worker and one of the following persons:

* A JHSC member who represents workers. If possible, this should be a certified member; or
* Another worker, who, because of knowledge, experience and training, has been chosen by the workers to represent them

The refusing worker must remain in a safe place near the workstation until the investigation is completed. This interval is known as the “first stage” of a work refusal. If the situation is resolved at this point, the worker will return to work.

**Second Stage Work Refusal:**

* The worker can continue to refuse the work if he or she has reasonable grounds for believing that the work continues to be unsafe.
* The Director of Research Operations must be notified and will in turn notify EMT and a Ministry of Labour Inspector (section 43(6)).
* The Inspector may come to the workplace to investigate the refusal or conduct an investigation over the telephone by consulting with the worker and the employer.
* While waiting for the Inspector’s investigation to be completed, the worker must remain in a safe place near the workstation unless the employer assigns some other reasonable work during normal working hours. If no such work exists, the employer can give other directions to the worker.
* As well, while waiting for the Inspector to investigate and give a decision on the refusal, the employer or supervisor can ask another worker to do the work that was refused. The second worker must be told that the work was refused and why. This must be done in the presence of a JHSC member. The second worker has the same right to refuse as the first worker.
* The Inspector must decide whether the work is likely to endanger the worker or another person. The Inspector’s decision must be given, in writing, to the worker, the employer, and the JHSC workers’ representative, if there is one.
* If the Inspector finds that the work is not likely to endanger anyone, the refusing worker is expected to return to work. If the Inspector finds that the work could endanger someone, the worker returns to work following the completion of any required remedial action.

**Documentation**

The documentation for a work refusal will include the following information:

* Name of the worker refusing the work
* Date and time of work refusal notification
* Supervisor’s name
* Worker’s reason for work refusal
* Investigation notes from the Supervisor and result
* Time a Ministry of Labour Inspector was contacted and the time the Inspector arrived and departed
* Results of any decision made by a Ministry of Labour Inspector
* Signature of all affected parties

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (please print), the undersigned, have read and understood the policy, its intent, and it’s application.



Signature

Date:

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