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Naloxone Kits and At-Risk Workplaces Ontario's new health and safety obligations in effect June 1, 2023

Death by opioid overdose is an epidemic throughout communities and, in some cases, workplaces. Effective June 1, 2023, Ontario's *Occupational Health and Safety Act* ("OHS") will require certain workplaces to have a Naloxone kit in the workplace. Ontario is the first and, thus far, only jurisdiction in Canada to require this. Should other jurisdictions follow suit, we will keep our readers apprised.

What is Naloxone?

Naloxone is a drug that temporarily reverses the effects of an opioid overdose. It can be administered intravenously or through a nasal spray and restore breathing within 2 to 5 minutes.¹ Naloxone is only active in the body for 20 to 90 minutes, so it is a temporary measure to buy time until medical assistance arrives.

Which workplaces must have a naloxone kit?

Not every workplace in Ontario is required to have a Naloxone kit. Only a workplace in which the employer becomes aware, or ought reasonably to be aware, there may be a risk of a **worker** having an opioid overdose **at the workplace**. For example, if an employer has several workplaces, but only one at which a worker may be at risk of overdose, the legislation only requires there be a kit at that one workplace. The risk of a worker overdosing on their own time, not at work, does not trigger the Naloxone requirement. Nor does the requirement apply to a customer, client or member of the public.

When the Naloxone requirement was announced, the Government of Ontario identified certain industries as being at heightened risk, including bars and night clubs, and the construction industry at which thirty percent of workplace overdose-deaths occur. While these industries may

¹ Government of Canada "Naloxone" online: <https://www.canada.ca/en/health-canada/services/opioids/naloxone.html>.

be more likely to experience an opioid overdose, the devastating impact of the opioid epidemic is not limited to them. Overdose can occur in any workplace, at any time.

Every employer should therefore assess if the Naloxone requirement applies to it. To this end, Ontario's Ministry of Labour, Immigration, Training and Skills Development published a guide to help employers determine if their workplace is at risk². Factors include:

- Has a worker already had an overdose in the workplace?
- Has a worker voluntarily disclosed they use opioids and are at risk of overdose at work?
- Has the employer observed opioid use in the workplace or become aware of it (e.g., through a workplace investigation or by observing drug-use paraphernalia in the workplace, etc.)?
- Has someone in the workplace brought this to the employer's attention?

Technical requirements

If a workplace is required to have a Naloxone kit, the following requirements must be satisfied:

- The kit must be in good working condition and kept in a hard case
- The contents of the kit must be for single use, replaced if used, and not expired
- The kit must be in the charge of a worker who works in the area, and trained on how to use it
- At least one worker, who is in charge and trained, must be on-site for all hours of operation at the workplace
- The names and location in the workplace of those trained to use the kit must be posted where they are most likely to come to the attention of workers

Best practices for employers

These amendments to the *OHSA* do not come into force until June 1, 2023, but that is not far off. To prepare, every employer should ask itself if there may be a risk of a **worker** having an opioid overdose **at the workplace**. If the answer is yes, the employer should begin planning now, so kit(s) and trained workers are in place before June 1.

For a limited time (2 years) the Government of Ontario will offer free kits and training. For more information please visit:

- <https://sja.ca/en/ontario-workplace-naloxone-training-program>
- <https://www.redcross.ca/ohrontario/home>

² Ministry Labour, Immigration, Training and Skills Development "Naloxone in the Workplace"
<https://www.ontario.ca/page/naloxone-workplace#overdose>.

Finally, it is important to remember that a workplace is like a living organism. Just because a Naloxone kit may not be required on June 1, 2023, does not mean it may never be required in the workplace. Employers should remain alert and vigilant.

To learn more and for assistance, contact your Sherrard Kuzz lawyer or info@sherrardkuzz.com.

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