

[www.pgme.utoronto.ca](http://www.pgme.utoronto.ca)

INNOVATION • INTEGRATION • IMPACT

# Workplace Safety and Insurance Board (WSIB) Coverage for Clinical Fellows

Fellowship Education Advisory Committee  
June 24, 2014



Postgraduate Medical Education  
UNIVERSITY OF TORONTO

# Background: WSIB Terminology

- A *training agency* arranges training (can be a public or private educational institution)
- An employer or placement host is an individual, organization or company that takes on someone as a trainee
- A *trainee* is a person who gains skills and work experience by working for a *placement host* through a program run by a *training agency*
- Trainees who work for employers who have workplace safety insurance coverage with WSIB cannot sue their employers if injured in a workplace accident

**wsib cspa** ONTARIO **7 Employer's Report of Injury/Disease (Form 7)**

Mail To: 200 Front Street West Toronto, ON M5V 1J1 OR Fax To: 416-344-4684 OR 1-866-313-2373

Please PRINT in black ink

**A. Worker Information**

Job Title/Occupation (at the time of accident/illness - do not use abbreviations) Length of time in this position while working for you Social Insurance Number

Please check if this worker is a:  executive  elected official  owner  spouse or relative of the employer

Is the worker covered by a Union/Collective Agreement?  yes  no

Worker's preferred language:  English  French

Worker's name: Last Name First Name

Address (number, street, apt., suite, unit) City/Town Province Postal Code Telephone

Sex:  M  F Date of Birth: dd mm yy

**B. Employer Information**

Trade and Legal Name (if different provide both) Check one:  Rate Number OR  Account Number Provide Number

Mailing Address: Rate Group Number Classification Unit Code

City/Town Province Postal Code Telephone

Description of Business Activity Does your firm have 20 or more workers?  yes  no FAX Number

Branch Address where worker is based (if different from mailing address - no abbreviations) City/Town Province Postal Code Alternate Telephone

**C. Accident/Illness Dates and Details**

1. Date and hour of accident/illness: dd mm yy AM PM

2. Who was the accident/illness reported to? (Name & Position) Telephone Ext

Date and hour reported to employer: dd mm yy AM PM

3. Was the accident/illness:  Sudden Specific Event/Occurrence  Gradually Occurring Over Time  Occupational Disease

4. Type of accident/illness: (Please check all that apply)  Struck/Caught  Fall  Harmful Substance/Environmental  Slip/Trip  Repetitive Motion  Page Blot  Assault  Motor Vehicle Incident  Other

5. Area of Injury (Body Part): (Please check all that apply)

<input type="checkbox"/> Head	<input type="checkbox"/> Neck	<input type="checkbox"/> Upper back	<input type="checkbox"/> Left	<input type="checkbox"/> Right	<input type="checkbox"/> Left	<input type="checkbox"/> Right	<input type="checkbox"/> Left	<input type="checkbox"/> Right	<input type="checkbox"/> Left	<input type="checkbox"/> Right
<input type="checkbox"/> Face	<input type="checkbox"/> Chest	<input type="checkbox"/> Lower back	<input type="checkbox"/> Shoulder	<input type="checkbox"/> Hand	<input type="checkbox"/> Hip	<input type="checkbox"/> Thigh	<input type="checkbox"/> Ankle	<input type="checkbox"/> Foot	<input type="checkbox"/> Toe(s)	<input type="checkbox"/>
<input type="checkbox"/> Ear(s)	<input type="checkbox"/>	<input type="checkbox"/> Wrist	<input type="checkbox"/> Forearm	<input type="checkbox"/> Finger(s)	<input type="checkbox"/> Lower Leg	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. Describe what happened to cause the accident/illness and what the worker was doing at the time (lifting a 50 lb. box, slipped on wet floor, repetitive movements, etc.). Include what the injury is and any details of equipment/materials, environmental conditions (weather, temperature, noise, chemicals, gas, fumes, other person) that may have contributed. For a condition that occurred gradually over time, please attach a description of the physical activities required to do the work.

0007A(01/11) A guide to complete this form is available at [www.wsib.on.ca](http://www.wsib.on.ca) next page Page 1 of 4

# Background: Affiliation Agreement - University and Teaching Hospitals

- Governing Council approved revised template for affiliation agreement in December 2011 which includes section on liability insurance

<http://assets.governingcouncil.utoronto.ca/BoardsCommittees/ab/AppB.pdf>

*The Hospital shall maintain in full force and effect a policy of comprehensive liability insurance to include coverage for any negligence, malpractice and medical professional liability **on behalf of its officers, employees, agents and Students** that could arise in the performance or non-performance of this Agreement. This insurance shall include coverage against bodily injury (including death), property damage and personal injury including cross-liability and severability of interest provisions with a combined limit of not less than \$5 million per occurrence. **Such insurance coverage will protect Students assigned to the Hospital** against legal liability incurred by them while acting within the scope of their duties and arising from the instruction, direction, or supervision provided by the Hospital. (Section XV.3)*

# Background: Affiliation Agreement - University and Teaching Hospitals

- In the November 2011 cover memo to Academic Board, it is noted that the Agreement template can be customized for each hospital related to insurance.

The terms of the template require maintenance of insurance policies to cover the clinical activities of students within the hospitals. We have been advised by some of our affiliated hospitals that their current practice is to **self-insure** those risks. The University's Office of Risk Management has confirmed that equivalent self-insurance is an acceptable practice in the context of the University's insurance coverage. Therefore in response to what we have been advised is current and accepted practice, **there will be an option for customization by individual hospitals to reflect their choice of providing equivalent self-insurance in article XV.3 Insurance.**

# Background: Affiliation Agreement - University and Teaching Hospitals

- Definition of “student” in the Agreement includes those in a postgraduate medical education program

## DEFINITIONS AND INTERPRETATION

### I.4.1 Definitions

*(k) Student* means a person formally registered in a Faculty or department of the University in a course or program of study. A Student may be registered in a certificate, a diploma, an undergraduate, a health professional graduate, a doctoral (MSc/PhD) graduate or a **postgraduate medical education program**. Persons present in the Hospital in training situations who are not registered as Students of the University are not Students within the meaning of this section.

# Background: Affiliation Agreement - University and Teaching Hospitals

- University is responsible for WSIB documentation for eligible students

## **XV.4 STUDENT WORKPLACE INSURANCE**

Neither the Hospital nor the University is responsible for Workplace Safety and Insurance Board premiums for Students, but the University will be responsible for arranging the relevant Workplace Safety and Insurance Board documentation regarding coverage for eligible Students.

# Current Status: Hospitals

➤ Occupational Health & Safety  
Offices of 14 University affiliated  
teaching hospitals were contacted  
about their response to  
injury/illness of clinical fellows  
in the workplace:



- Baycrest
- CAMH
- SickKids
- Holland Bloorview
- Humber River
- Mount Sinai
- North York General
- St. Joseph's
- St. Michael's
- Sunnybrook/St. John's
- Toronto East General
- Toronto Scarborough
- UHN
- West Park

# Current Status: Hospitals (cont'd.)

- Recurring themes in the replies received to date from 12 of the 14 offices contacted:
  - WSIB covers only clinical fellows on hospital payroll
  - “Unpaid” fellows receive the same treatment as any non-paid individual working/learning in the hospital
  - Hospitals refer cases/accident reports involving clinical fellows to the University, expecting the University as training agency to follow WSIB guidelines
- Hospitals are clear on WSIB guidelines for UGME students and Ministry-funded PGME residents, but many find WSIB guidelines for clinical fellows a “grey” area



# Current Status: PGME Office / THPPA

- Toronto Hospitals Postgraduate Payroll Association (THPPA) is UofT Faculty of Medicine paymaster for all residency trainees who are registered with the Faculty of Medicine and are funded by the Ontario Ministry of Health and Long-Term Care (MOHLTC)
- THPPA pays WSIB premiums for MOHLTC funded PGY residents
- THPPA refers injury/illness forms (WSIB Form 7) received from hospital Health & Safety offices for clinical fellows not on hospital payroll (e.g. departmentally funded, grant funded or other externally funded fellows) to the relevant postgraduate medical department

# WSIB Operational Policy Branch Response

- WSIB's Operational Policy Branch was contacted regarding insurance coverage for a trainee (a trainee is also called a "learner" or "student").
- WSIB considers an individual to be a learner when he/she is placed by a *training agency* (i.e. university) with a *placement host* (i.e. hospital) to gain skills and work experiences, but is not paid by the placement host
- A *placement host* is considered the employer of the learner/unpaid trainee during the placement and is responsible for WSIB premiums



# Who pays the premiums?

- WSIB requires the *placement host* to pay the insurance premiums for their trainees, except when:
  - the *placement host* works in an industry that does not have to have coverage under the law, or
  - the training agency volunteers to pay the premiums, or
  - the government agency involved funds the coverage premiums

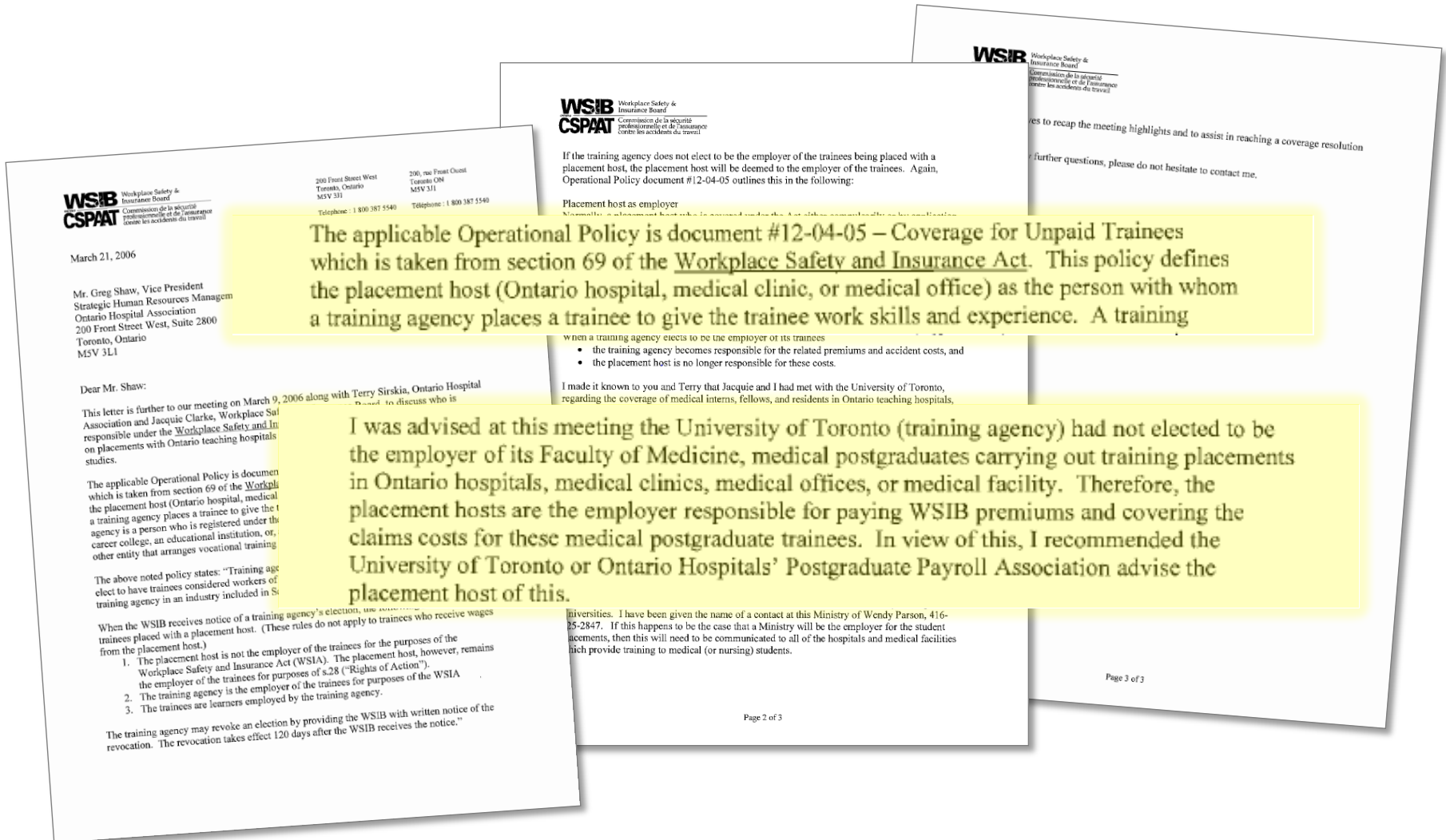


# Industries Exempt from WSIB Coverage

➤ The following industries are exempt from WSIB coverage (but may elect to be included):

- Banks, trusts and insurance companies
- Computer software developers
- Private health care practices (such as those of doctors and chiropractors)
- Trade unions
- Private day cares
- Travel agencies
- Clubs (such as health clubs)
- Photographers
- Barbers, hair salons, and shoe-shine stands
- Taxidermists
- Funeral directing and embalming

# WSIB Communication with OHA (2006)



**WSIB**  
CSPAAAT  
Workplace Safety & Insurance Board  
Commission de la sécurité professionnelle et de l'assurance contre les accidents du travail

March 21, 2006

Mr. Greg Shaw, Vice President  
Strategic Human Resources Manager  
Ontario Hospital Association  
200 Front Street West, Suite 2800  
Toronto, Ontario  
M5V 3L1

Dear Mr. Shaw:

This letter is further to our meeting on March 9, 2006 along with Terry Sirskia, Ontario Hospital Association and Jacque Clarke, Workplace Safety and Insurance Board, regarding the placement host responsible under the Workplace Safety and Insurance Act in placements with Ontario teaching hospitals and medical clinics.

The applicable Operational Policy is document #12-04-05 which is taken from section 69 of the Workplace Safety and Insurance Act. This policy defines the placement host (Ontario hospital, medical clinic, or medical office) as the person with whom a training agency places a trainee to give the trainee work skills and experience. A training agency elects to be the employer of its trainees.

The above noted policy states: "Training agency elects to have trainees considered workers of the placement host in an industry included in Schedule 1 of the Act."

When the WSIB receives notice of a training agency's election, the placement host is deemed to be the employer of the trainees placed with a placement host. (These rules do not apply to trainees who receive wages from the placement host.)

1. The placement host is not the employer of the trainees for the purposes of the Workplace Safety and Insurance Act (WSIA). The placement host, however, remains the employer of the trainees for purposes of s.28 ("Rights of Action").
2. The training agency is the employer of the trainees for purposes of the WSIA.
3. The trainees are learners employed by the training agency.

The training agency may revoke an election by providing the WSIB with written notice of the revocation. The revocation takes effect 120 days after the WSIB receives the notice."

200 Front Street West  
Toronto, Ontario  
M5V 3J1  
Telephone: 1 800 387 5540

200, rue Front Ouest  
Toronto, Ontario  
M5V 3J1  
Téléphone: 1 800 387 5540

**WSIB**  
CSPAAAT  
Workplace Safety & Insurance Board  
Commission de la sécurité professionnelle et de l'assurance contre les accidents du travail

If the training agency does not elect to be the employer of the trainees being placed with a placement host, the placement host will be deemed to be the employer of the trainees. Again, Operational Policy document #12-04-05 outlines this in the following:

Placement host as employer

- When a placement host elects to be the employer of its trainees:
- the training agency becomes responsible for the related premiums and accident costs, and
  - the placement host is no longer responsible for these costs.

I made it known to you and Terry that Jacque and I had met with the University of Toronto, regarding the coverage of medical interns, fellows, and residents in Ontario teaching hospitals.

I was advised at this meeting the University of Toronto (training agency) had not elected to be the employer of its Faculty of Medicine, medical postgraduates carrying out training placements in Ontario hospitals, medical clinics, medical offices, or medical facility. Therefore, the placement hosts are the employer responsible for paying WSIB premiums and covering the claims costs for these medical postgraduate trainees. In view of this, I recommended the University of Toronto or Ontario Hospitals' Postgraduate Payroll Association advise the placement host of this.

universities. I have been given the name of a contact at this Ministry of Wendy Parson, 416-325-2847. If this happens to be the case that a Ministry will be the employer for the student placements, then this will need to be communicated to all of the hospitals and medical facilities which provide training to medical (or nursing) students.

Page 2 of 3

Page 3 of 3

# What would premiums for fellows cost?

- WSIB premiums are calculated based on the type of business (Classification Unit), health and safety risk, size of payroll, and the company's health and safety record
- For UofT residents:
  - 2013 rate was \$1.10 per \$100 of payroll (with a salary range of \$51,065 to \$83,200)
  - The *monthly* premium for approximately 1,800 residents (payroll of \$9,701,487) was over \$106,000
- Estimate for UofT clinical fellows: using the residency cost as a guide, the *monthly* premium for approximately 1,200 fellows could be between \$45,000 and \$65,000

# Legislation: Bill 146

- **Bill 146: Stronger Workplaces for a Stronger Economy Act**
  - Would amend Occupational Health and Safety Act's definition of "worker" to include "a person who performs work or supplies services for no monetary compensation" such as students, trainees and interns
  - Now in second reading debate, must pass review by committee, third reading, final vote and Royal Assent
  - Hospital Occupational Health & Safety offices are aware of the legislation but seem uncertain of its impact
  - WSIB is administered under the Workplace Safety Insurance Act, but Bill 146 may have some impact on the employer's definition of learner

# Next Steps for Consideration

- Referral to University's legal counsel
- Clarification from, Manager, Student Policy Initiatives and High Risk in the University Vice Provost's Office, Students and First Entry Divisions who now administers the WSIB documentation for student placements
- Acknowledgement of WSIB Operational Policy by Ontario Hospital Association (OHA)