



Policy Amendment Proposal

RE-02-3 Duty to Co-Operate, Part 3 of 4 Functional Abilities

This policy amendment proposal relating to functional abilities in the return to work process will reflect the issues consulted on during the engagement for the *Workers' Safety and Compensation Act* (the 'Act') and will align the amendments made in the new legislation.

The new Act comes into force July 1, 2022. The intended effective date of the proposed policy amendments will be July 1, 2022.

The proposed amended Duty to Co-Operate, Part 3 of 4, Functional Abilities policy will reflect minor changes to ensure consistency with the provisions of the Act.

A five-year policy review plan will be developed later in 2022. After July 1, 2022, all amended policies to align with the new Act will be prioritized for a more detailed review.

The purpose of this policy is to outline the responsibilities of a health care provider to provide the board, worker and employer with information concerning the worker's functional abilities.

Relevant sections of the Act

The following sections of the Act are relevant:

- 113 health care reports

Proposed minor changes to this policy are highlighted in yellow

- changes to section references, language and definitions

Board Orders/Regulations

N/A

Current policy

[RE-02-3 Duty to Co-Operate, Part 3 of 4, Functional Abilities](#)



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The Board of Directors is providing this policy amendment proposal to stakeholders seeking their input, comments, questions and suggestions.

Some questions for consideration:

1. Are there any general comments about this policy proposal?
2. Are there any gaps in this policy proposal?
3. Additional comments?

The views of our stakeholders are important to us. All feedback will be considered prior to the Board of Directors approving any amendments.

Engagement on this policy proposal closes on **May 31, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) our website and sending it as an attachment to Policy.Feedback@wcb.yk.ca
2. Emailing comments directly to Policy.Feedback@wcb.yk.ca
3. Receipt in our building by May 31, 2022, by mail or drop off at
*Yukon Workers' Compensation Health and Safety Board
401 Strickland Street
Whitehorse, Yukon Y1A 5N8*

By the end of June a summary of all feedback on this policy amendment proposal will be published on our website at www.wcb.yk.ca



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RE-02-3 Duty to Co-Operate, Part 3 of 4

Functional Abilities

Preventing work-related injuries is the most important job in any workplace. The *Workers' Safety and Compensation Act* establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy outlines the responsibilities of a health care provider to provide the board, worker and employer with information concerning the worker's functional abilities.

Definitions

board means the Workers' Safety and Compensation Board

case management team means a team that assists the worker with their recovery, early and safe return to work plan and, if needed, vocational rehabilitation. The team always includes the worker and the board. Employers have a duty to co-operate in their worker's early and safe return to work and will be encouraged to use participation on the Case Management Team to facilitate that duty. The team can also include up to two representatives of the worker (chosen by the worker), case manager and the health care providers. Other members may be added depending on their specific roles and responsibilities.

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

functional abilities means an worker's limitations and abilities (what the worker can and cannot do) with respect to a work-related injury

functional capacity evaluation means a series of tests that provide an independent assessment and job simulation of critical physical demands, a reliable prediction of functional tolerances and the frequency with which a worker can perform them

health care provider means

- a. a medical practitioner; or
- b. a health care provider recognized by the board

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written or oral, express or implied and as further defined in section 77 of the Act



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Functional Abilities

Policy Statement

1. General

A health care provider who attends a worker who has, or may have suffered, a work-related injury must send a report to the board within two days after their first attendance on the worker, and send progress reports to the board as the health care provider considers appropriate, or as the board may require from time to time.

The board will encourage workers, health care providers, employers and other parties to work co-operatively as a Case Management Team and to explore all reasonable, creative and flexible solutions to design plans that will facilitate the worker staying at work, when possible, or facilitate the worker's early and safe return to work when the worker, functionally, cannot stay at work.

Functional abilities information is provided to workers, employers and the board by health care providers and is usually not directly tied to the workers' job duties by the health care provider unless the health care provider has specific knowledge of the worker's job, is qualified to provide such an assessment and has been requested to provide this information by the employer, worker, the board or, in the case of an appeal, by the Appeal Tribunal.

This information will be used to develop a RTW plan with the worker. The goal is to return the worker to their employment at the time of the work-related injury in accordance with the hierarchy of return to work objectives (see policy [RE-01 Return to Work – Overview](#)) while accommodating the worker's functional abilities.

2. Functional abilities information

When requested to do so by the employer, worker or **the board**, the health care provider treating the worker must give the employer, worker and **the board** information concerning the worker's functional abilities.

Functional abilities information regarding a particular worker can be provided in writing by using:

- a. the functional abilities information provided by the health care provider on **board's** "Functional Abilities Form"; and
- b. a form created by the employer which is specific to their own workplace should they wish to do so; or
- c. if required, a more comprehensive evaluation of functional ability, such as a functional capacity evaluation.



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Functional Abilities

While generally a family physician is responsible for the ongoing care of the worker, other health care providers who treat and/or assess the worker may also be called upon to provide functional abilities information.

3. Payment For functional abilities information

The board will pay health care providers for functional abilities information that is:

- a. provided on the board's "Functional Abilities Form"; or
- b. in the opinion of the board, required to facilitate the early and safe return to work plan (e.g. a functional capacity evaluation).

The board will pay a health care provider a set amount for the provision of information under the Act.

If an employer uses their own functional abilities form, or the Case Management Team desires a different evaluation of functional ability not required/approved by the board, the employer must cover the fee to complete the evaluation or form, and obtain separate consent from the worker, as the consent given to the board by the worker when filing a claim for compensation relates only to the disclosure of information on the board's forms.

The employer's request for disclosure of functional abilities information shall be limited to that which is required for the purpose of aiding in the worker's return to work. Where the Case Management Team recommends, and, in the board's opinion, a more comprehensive evaluation of functional ability is required, the board will arrange and pay for it.

4. Confidentiality of report

With the consent of the worker, the employer or employer representatives may disclose the functional abilities information provided by the health care provider to a person assisting the return to work of the worker.

Related Policies

[RE-01 Return to Work – Overview](#)
