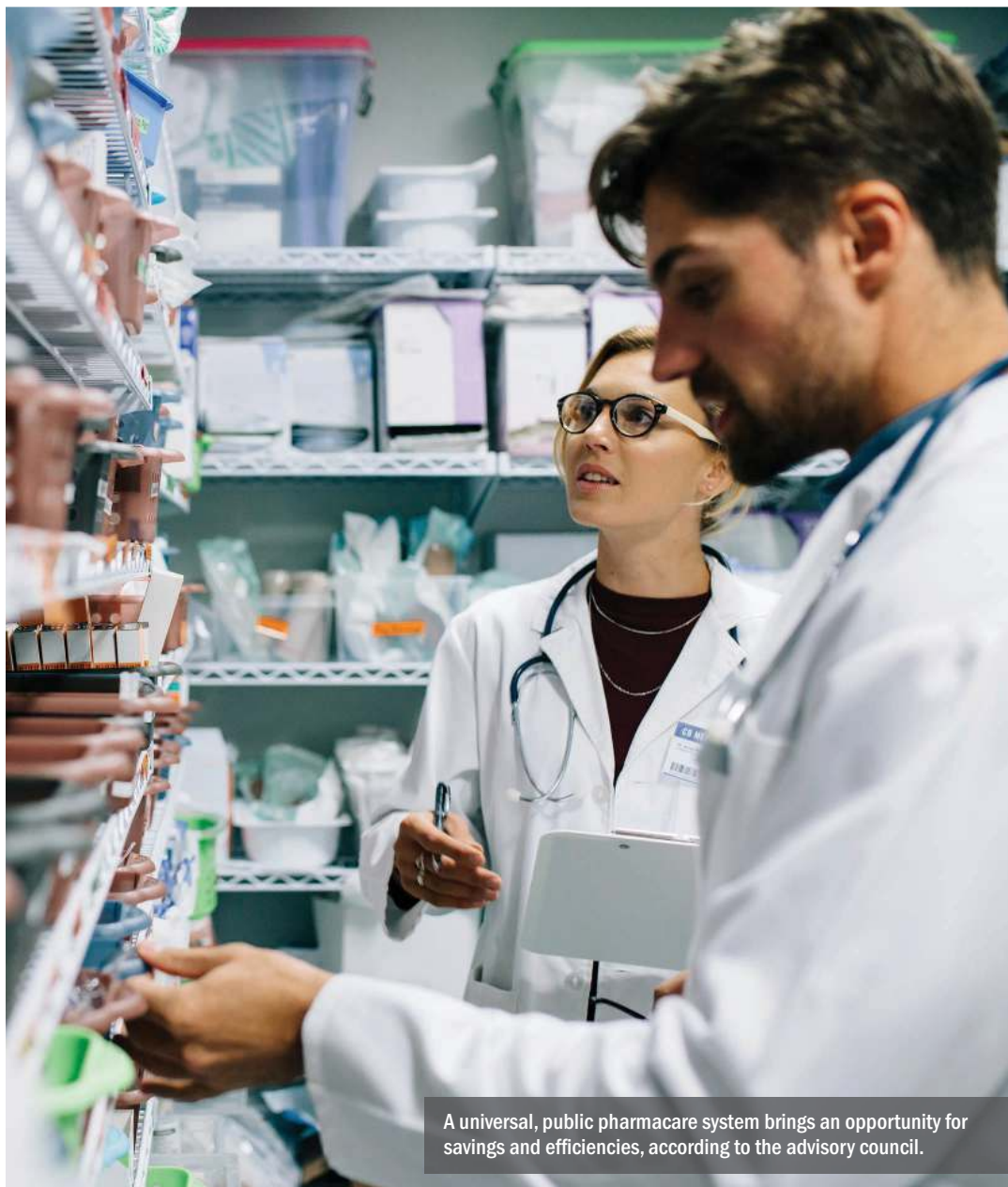


STAY UP TO DATE,  
AND OUT OF COURT.



A universal, public pharmacare system brings an opportunity for savings and efficiencies, according to the advisory council.

Credit: Jacob Lund (Shutterstock)

## SINGLE-PAYER PHARMACARE RECOMMENDED

*But experts mixed on implications for employers*

BY MARCEL VANDER WIER

The conversation surrounding a universal pharmacare framework in Canada ratcheted up a level in June, when a national advisory council recommended the implementation of a single-payer system.

The six-member council urged the federal government to work in partnership with provincial and territorial governments to establish a public system for prescription drug coverage, while also establishing a national formulary of prescription drugs, beginning with an essential list by Jan. 1, 2022 — with full implementation scheduled for 2027.

At present, Canada's prescription drug coverage model consists of dual public and private coverage, while provinces and territories each adhere to individual formularies.

Canada spent \$34 billion on prescription medicines last year, according to the government.

A single-payer model in which all Canadians receive prescribed medications through a single entity represents an opportunity for savings and equality of coverage, says Eric Hoskins, chairman of the Advisory Council on the Implementation of National Pharmacare.

"The time for universal, single-payer public pharmacare has come," he says. "The biggest advantage may be the savings and efficiencies that you find with the single-payer model that you can't with the other models — often described as 'fill in the gaps.' By keeping the current system of mixed public and

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High-cost drugs, disease management top concerns: Survey  
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### Sexual assault charges lead to suspension

Hospital's response appropriate: tribunal  
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### Changes in Alberta

Alterations to rules around overtime, holiday pay, minimum wage  
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### Riveted on recruitment

We talk to 5 HR leaders about the trials and tribulations of recruitment  
page 13

INSIDE



## CLC changes coming into force Sept. 1

*Unionized employers most impacted by provisions around scheduling, overtime: experts*

BY SARAH DOBSON

AFTER considerable anticipation, the federal government has finally announced that several changes to the Canada Labour Code will come into effect Sept. 1, 2019.

The alterations — made through the Budget Implementation Act, 2017, No. 2 and the Budget Implementation Act, 2018, No. 2 — will impact federally regulated employers.

The amendments "aim to support employees in achieving better work-life balance and benefit employers through increased productivity, decreased absenteeism, enhanced recruitment and retention and more flexible and effective workforce utilization," said the government.

In addition to the changes highlighted in the January 2019 story "Bill C-86 brings major changes" in *Canadian HR Reporter* — including new leaves, pay equity requirements

and alterations to vacation pay — the amendments coming into force this fall involve provisions around scheduling, overtime and flexible work arrangements.

But while the changes are similar to those brought in by the Ontario government, the federal sector looks a lot different than the provinces, says Christopher Pigott, a partner at Fasken in Toronto.

"These are 24-7, continuous-operation types of industries that do not exist to the same extent in the provinces. They're also, as compared to the provinces, heavily unionized companies. And so, you've got companies — airlines, telecommunications, rail companies — that have longstanding and very mature and sophisticated collective agreements and relationships with

WORKERS > pg. 9

# Maturing tech shifting workplaces, economy: Report

*Policy Horizons Canada explores 5 game-changing ideas*

BY MARCEL VANDER WIER

**THE COMBINATION** and maturation of artificial intelligence (AI) and automation will redefine the workplace forever, according to a new report from the federal government.

*The Future of Work: Five Game Changers* predicts what Canadian workers may face in coming years, in an effort to ensure government policy is robust and resilient in the face of disruptive change, says Kristel Van der Elst, executive head of Policy Horizons Canada, a government organization providing foresight in Ottawa.

"We looked at a number of technologies — if they mature and combine, how they change the organizing principles of our economy," she says. "It's more thinking about a shift in how you think about the nature of work. The idea is to have people rethink some of the assumptions that underlie policy work."

Over the past two years, Policy Horizons conducted research, interviews and workshops leading to the report, as well as a secondary document entitled *The Next Digital Economy*.

The future of work report identifies five "game-changers" — driving forces for the future affecting organizations, workers and broader society, says Van der Elst.

- They are as follows:
- Work moves from long-term and time-based to temporary and task-based.
  - AI and automation could erode employment long before technologies replace entire jobs.
  - AI ends the scarcity of knowledge workers, potentially allowing jobless growth in knowledge industries.
  - Combined digital technologies could reduce the role and need for human intermediaries.
  - Where people work and earn income may not be where they live and spend time and money.

## 'Centaur work'

When these game-changers take effect, job roles will be operated in the fashion of centaurs — half-human, half-horse creatures from Greek mythology, says Van der Elst.

"It's the idea that you build on the best capabilities of human beings and of what robots, machines and AI can do," she says. "By making sure that you use both capabilities to the optimal, you can have higher efficiencies and outcomes. You can actually increase the quality and quantity of the work being done, and it may actually provide more safety for some of the workers by having dangerous or boring tasks being done by robots."

Blending excellent technologies with humans is the way of the future, says Kim Toews, executive vice-president and head of HR at HSBC Canada in Vancouver.

"It's not something to be feared," she says. "It's something to be embraced and looked at as an opportunity."



Employers and HR professionals need to rethink jobs with technology in mind, says one expert.

Credit: Icatnews (Shutterstock)

Quality technology frees up front-line staff to spend more time with customers, and a reduced focus on repetitive tasks should boost staff productivity and well-being, says Toews.

"That's a good thing... That's certainly how we're trying to approach the future of work... embedding it in our strategy and very much focusing on the customer experience."

Employers and HR professionals need to rethink jobs with technology in mind, says Van der Elst.

"It's not the jobs that will be fully automated, it is tasks within the jobs that will be automated," she says. "You're starting to see quite a number of functions that are being redesigned to work with the capabilities of technology, so that could speed up significantly the process of decreasing demand for workers."

The unbundling of jobs is creating more automatable tasks and increased commission opportunities for gig workers — all of which are shifting compensation models from hourly work to piecework, says Van der Elst.

"That has quite a number of implications in terms of what that means for the level of compensation for people, for adherence to minimum wages, for working conditions," she says. "And it takes away the concept of the employer-employee relationship."

Further, the shifts in workplaces will alter social support systems, affecting access to benefits such as private health and insurance, says Van der Elst.

"It's really important to start thinking through some of these issues."

## Changing perceptions

Perceptions about the future are changing.

Nearly seven in 10 (69 per cent) Canadians are excited by technology's potential, while only 11 per cent believe it will eventually take their job, according to a survey of 2,005 people by KPMG.

"The true reality is that AI is no different than any other emerging technology that we've had over decades," says Peter Hughes, a partner and digital services leader at KPMG in Toronto.

"People recognize that AI is just another technology, or set of technologies, that will start to automate tasks," he says. "And it's just a natural evolution, in my opinion, of the overall improvement and efficiency in the way in which work gets done."

Workers are becoming attuned to the fearmongering surrounding mass layoffs by way of automation, says Hughes. And robotic-process automations are creating efficiencies for many high-volume, low-value processes.

"That's where most of the impact is happening, but that's not anything that people would read about or know about, because it's not that sexy," he says.

"Getting away from macro impact and having a focus on micro impacts is a much more realistic angle to take, because that's what history has proven."

Four in five (79 per cent) Canadian businesses are anticipating growth in the next two years, according to a survey of 2,500 organizations across the globe by HSBC Canada.

Nearly half (47 per cent) of employers expect to invest in skills and training, while 42 per cent are planning increases to well-being investments, she says.

"Fifty-four per cent see more opportunities than threats, and then an additional third see them as balanced, which is not the headlines you see often," says Toews. "There's less of a fear of it, more of a 'Let's get some action here,' as opposed to just being worried about it."

## Advice for HR

When it comes to the future of work, it's important that HR understand the time has come, says Toews.

"When people talk about the future of work, they're always talking about it like it's some future thing. It's not."

The pace of disruptive change is unlike anything employers have seen before, says Hughes.

"We've always had technological shifts and changes, but we've never had them at a pace that they're happening now."

Past strategies such as hiring a specialist to deal with disruptive technology are no longer viable; simply put, too many things are happening at once, he says.

"Now that we're into exponential technologies like AI and robotic process automation, there are exponentially more of these... technologies, and so no longer can organizations just say, 'OK, well, that's something we need to be into. We're going to start hiring for that.'"

Employers need to be constantly evaluating improvements and effectiveness, alongside proactively reacting to new technologies, says Hughes.

It's important to remember that no employer can be a specialist in every technology, he says.

"That's a fool's game that you will not win."

Strategic thinking in terms of future competition, areas of opportunity and automatable processes should all be considerations for HR professionals, says Van der Elst.

Thought should be given to how readily an organization's clientele would accept automation, corporate social responsibilities, reskilling options, as well as what type of employer one wants to be viewed as, she says.

"What's really important is that when you start to look at both your business plan and your human resources plan, you just need to recognize that these things will happen. But there is some urgency, also, and there are some reflections to have beyond economics."

## ON THE WEB

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## BLOGS



**Welcoming wage increases**  
Pay unhappiness is an issue, so StatCan's latest numbers are encouraging

**Whatever gets you through the night**  
There's no failure to accommodate if an employee doesn't provide sufficient information

**Rookie blues**  
Young, inexperienced workers may be less knowledgeable or vocal about their rights, but they shouldn't be forgotten

**The view from the other side of the hiring table**  
An HR leader's quest to become CHRO highlights challenges of finding a job

## BRIEFS



**House approves US\$15 minimum wage, but Senate prospects are dim**  
Tipped workers would receive same base rate for first time

**Manitoba wants to attract Quebec civil servants worried about clothing law**  
Letters heading to professional organizations, colleges, training centres

**Amazon to train one-third of U.S. workforce with technical skills**  
Effort will help transition staff to software engineering roles

**1 in 4 U.S. workers don't plan to retire despite realities of aging: Poll**  
Illness, layoffs often force older workers to leave jobs, say experts

**5 New York City anchorwomen allege age discrimination**  
TV 'should accurately reflect women in society'

# High-cost drugs, disease management among top health concerns for employers

*Wellness cultures, targeted communications can make a difference: survey*

BY SARAH DOBSON

**WHEN IT COMES** to workplace health, employers are continuing to struggle with persistent issues such as higher-cost specialty drugs and chronic disease management, but there are a few promising solutions to be had, such as a strong wellness culture, a focus on mental health and more targeted communications, according to a Sanofi survey.

## Wellness culture pays off

Having a workplace wellness culture can pay dividends, found the survey. For one, 59 per cent of employees with a workplace wellness culture say they are managing their chronic condition or disease very well, compared to 44 per cent of those without this culture.

In addition, 61 per cent of those with a wellness culture rate the quality of their health benefit plan as very well, compared to 28 per cent of those without such a culture. And 85 per cent of those with a wellness culture are satisfied with their job, compared to 62 per cent of those without.

"It's more [about] the plan sponsor realizing that it's important to get their employees moving and healthy from a preventative perspective, not just from a drug coverage perspective," says Andrea Frankel, private payer lead at Sanofi in Toronto. "Certainly, the drugs are important to provide a robust health benefit plan. But also, let's focus on earlier [issues] upstream."

Without a workplace wellness culture, a benefits plan is seen as a way for an employee to fix something that's broken, such as a sore back, so it becomes almost reactive and negative, says Ryan Weiss, vice-president of product and experience at Great-West Life in Winnipeg.

"If you switch that on its head, a wellness culture then becomes enabling, it becomes proactive, it becomes 'My employer, my organization is investing in me before I get sick, not just paying for things after I get sick.' Obviously, that's a much more positive way to spin it."

For most employers, a culture of health starts with looking at the needs of employees "and understanding how those needs can affect the performance of the organization," says Chris Bonnett, principal consultant at H3 Consulting in Guelph, Ont.

However, smaller employers tend to focus less on wellness, even though they know they should have a healthy work environment. It's mostly about keeping benefit costs low, says Robert Crowder, founder and president of the Benefits Trust in Vaughan, Ont.

"In the larger employers setting, where there's a professional HR department... they can use their drug plan to manage chronic disease, and they can use their benefit plan to look at mental health and wellness and so on. So, it's a bit of a different beast."

## Targeted communications

When it comes to plan fixes, employers cite "improved coverage options for higher-cost specialty drugs" as most important (39 per cent), followed by more benefits to prevent illness (36 per cent), more benefits to manage chronic disease (34 per cent), improved disability management (25 per cent) and fraud detection or prevention (19 per cent).

One of the challenges is what to do with the information around all this once employers have it, says Bonnett.

"They're not necessarily clear on what to do with it, how to organize the information, how to set priorities... Some people figure that 'Well, we just need incentives, and that'll be enough to get people to look after their own personal health.' And a lot of employ-

ers, I think, are still thinking that it's just about personal lifestyle, not about the way they manage, not the way that they lead, not the cultures that they build in their organizations."

Enabled by insurers and advisors, organizations need to do better, and plan members also need to be more responsible for their own health, and how they use the benefit plan, he says,

"knowing that we want that plan to be sustainable in the long term."

Sanofi found that 74 per cent of plan sponsors are interested in having benefits providers send targeted personal health information to plan members.

More targeted solutions can also help, with layered claims data and context-based messaging

STRONG > pg. 6



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**2,200**

Decrease in number of Canadians working in June.

**5.5%**

Unemployment rate in June.

**421,000**

Rise in Canadian workers since June 2018.

**1.8%**

Increase in number of hours worked since June 2018.

**132,000**

Rise in employment through the second quarter, mainly in full-time work.

**10.7%**

Youth unemployment rate in June.

**10,000**

Employment increase in Alberta through June, with a rise in full-time positions more than offsetting a decline in part-time work.

**6.1%**

Rise in student workers (age 17 to 19) in June 2019, compared to June 2018.

**22,000**

Increase in health-care and social assistance jobs in June, following a similar increase in May.

Source: Statistics Canada

## Gen Z arrives

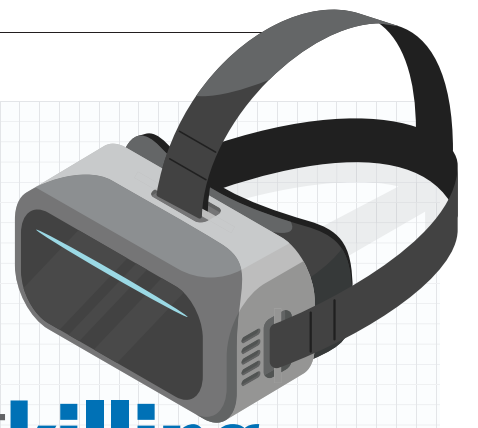
Good pay and quick promotions top the workplace wish list for the next generation of workers, according to a survey of 1,000 Americans between ages 18 and 23.

**75%** expect promotions within a year of working, while 32% expect it within six months.

**75%** say it's important to have an employer that can coach workers.

**40%** believe they will make more than US\$100,000 at the height of their career.

Source: InsideOut Development



## DIGITAL upskilling

Canadian executives are less likely than their global counterparts to focus on proactive transformation initiatives, according to a survey of 1,378 CEOs.

**27%** cite a lack of suitably skilled teams as their No. 1 barrier, versus 21% of global executives.

**27%** say their organization trains employees to work with new technology, versus 37% of executives globally.

**45%** say artificial intelligence (AI) is a corporate focus, compared to 54% globally.

Source: PwC Canada

## They earn WHAT? \$17.72

Hourly wage for a cement truck driver at the Cement Cartage Company in Havelock, N.B. Based on a 40-hour schedule, weekly earnings would total **\$708.80** for an annual salary of **\$36,857.60**. Drivers also earn **\$0.33** in per-kilometre pay.

Source: Canadian Labour Reporter/www.labour-reporter.com



Four in five office workers would sacrifice \$9,000 in annual salary to do more meaningful work, according to a survey of 1,512 Canadians.

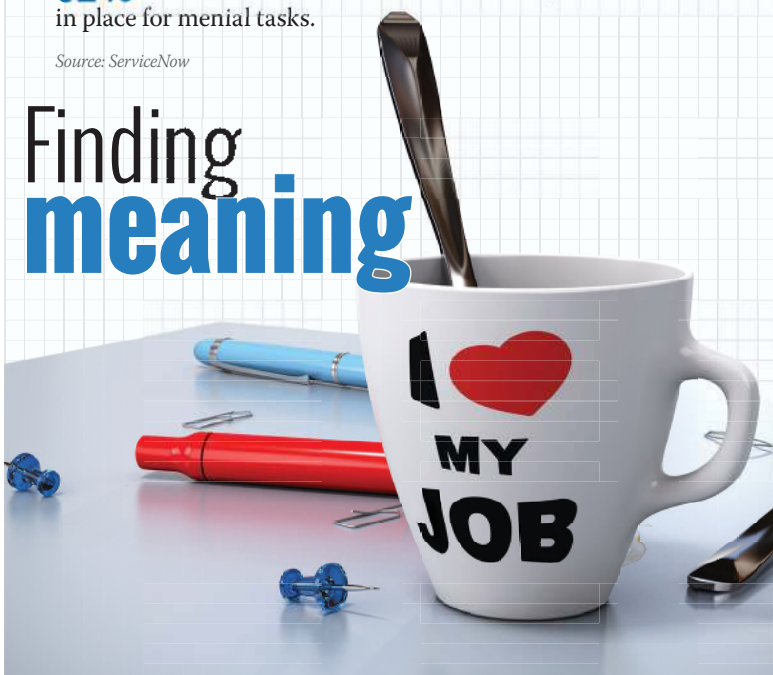
**68%** would never take a job that was unrewarding or frustrating, even if the pay was higher.

**47%** would give up a pay raise for more meaningful work.

**62%** feel more productive when their employer has solutions in place for menial tasks.

Source: ServiceNow

## Finding meaning



## Email overload

Two in five employees ignore email correspondence from their human resources department, according to a survey of 1,000 U.S. workers.

**34%** sometimes ignore HR emails, while 6% always do.

**30%** never check their email after hours.

**44%** prefer text communication over email.

Source: SlickText



# Charged with sexual assault of patient, B.C. X-ray tech suspended without pay

*Suspension appropriate even before resolution of legal proceedings: arbitrator*

BY JEFFREY R. SMITH

Health-care organizations must hold a high standard of conduct for employees due to the trust the public holds in them and the vulnerability of the patients they treat.

That's a big reason why an arbitrator determined the Vancouver Coastal Health Authority (VCHA) was justified in suspending an X-ray technologist without pay — after police charged him with the sexual assault of patients — due to the risk to its reputation and the seriousness of the charges.

In June 2016, the VCHA was made aware the RCMP was investigating the sexual assault of a patient at one of its hospitals. The suspect was a 57-year-old X-ray technologist with nearly 30 years of service. The VCHA didn't receive any details, but it launched an internal investigation to learn more about the circumstances. It asked the worker to co-operate in the VCHA's investigation, but the worker declined on the advice of his lawyer, since the police investigation was ongoing.

The VCHA decided to implement a safety plan that involved reassigning the worker to non-patient care duties at a different



**Jeffrey Smith**  
LEGAL VIEW

hospital. The worker went along with the plan and proceeded to perform "special project" work for the next 18 months. In addition to receiving his regular pay, he was reimbursed for expenses incurred from the longer commute to the second hospital.

The special project work was below the worker's expertise level, but it was the only appropriate work available — the VCHA described it as a "make-work" project to allow the staffer to continue working while the police investigation was going on, while keeping him away from vulnerable patients.

The project often involved du-

ties that others were already performing, and assignments were given to him a little bit at a time. It eventually became obvious to other employees that something was up, since the tasks the worker was completing were not special project work and weren't meaningful.

In November 2017, the RCMP informed the VCHA the worker had been charged with three counts of sexual assault involving three different patients on three occasions in 1990, 1997 and 2001.

At this point, the VCHA was concerned about the public finding out about the charges, the seriousness of the offences and the trust issues they raised — as well as the fact the duties the worker was performing had little value. It decided to suspend the worker without pay pending the outcome of the criminal proceedings. He continued to be covered by the VCHA's benefits.

The union grieved the suspension, arguing that an unpaid suspension pending the outcome of the criminal proceedings was unfair. It said the VCHA was a large organization that could afford to pay the worker if it didn't want

him in the workplace, and holding the worker out of service without pay was risk-free for the VCHA.

The arbitrator noted that the Supreme Court of Canada had established that work was a fundamental aspect in a person's life and it was important for people to contribute in their jobs. On the other hand, if "it is impossible to find alternate work in light of the nature of both the workplace and the crimes charged, it may well be reasonable to hold the employee out of service."

Though the VCHA continued to allow the worker to perform alternate duties while police were investigating, once charges were laid, the situation became more serious regarding his presence in the hospital and the VCHA's reputation. The suspension was reasonable to protect the VCHA's reputation and patients, said the arbitrator.

As for whether the suspension should be paid or unpaid, while the VCHA was a large organization that could afford to pay the worker's salary while on suspension — essentially making it an administrative leave until the legal proceedings were resolved

— "it would be at substantial risk of causing serious damage to its reputation," said the arbitrator.

As an X-ray technologist, the worker worked mostly independently and with often-vulnerable patients. The charges involved were related to patients and the worker's job duties, and they raised serious concerns about trust, according to the arbitrator: "There can be few, if any, offences more serious than a health-care worker committing an act of sexual assault on a patient."

As a result, the arbitrator also determined it was reasonable for the suspension to be unpaid, noting that once the criminal matter was resolved, the VCHA had the right to conduct its own investigation and determine appropriate discipline.

**For more information, see:**

• *Vancouver Coastal Health Authority and HAS (BJ), Re* (2018), 291 L.A.C. (4<sup>th</sup>) 391 (B.C. Arb.).

*Jeffrey R. Smith is the editor of Canadian Employment Law Today. For more information, visit [www.employmentlawtoday.com](http://www.employmentlawtoday.com).*

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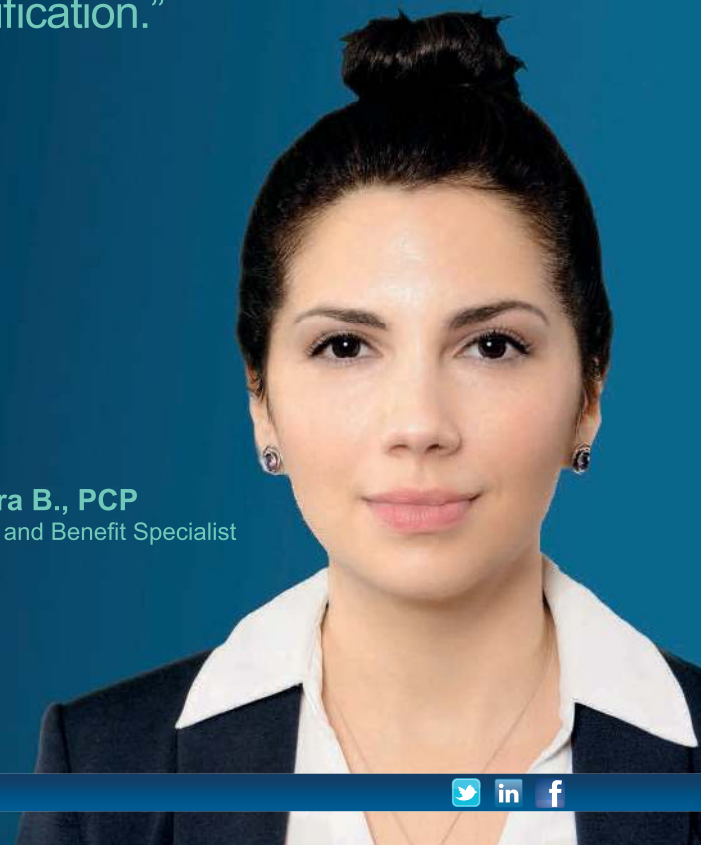


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# Feds launch coworking pilot project

*Two-year government plan hopes to encourage collaboration, innovation*

BY JOHN DUJAY

**THE CONCEPT** of coworking has been around since the early 2000s and the federal government now wants to take a dip into that pool — albeit in a small way.

The GCcoworking initiative will see 385 new office spaces opened for workers in the National Capital Region (NCR) that will provide a “temporary touch-down point for employees travelling between meetings or a temporary workspace for employees who telework and need access to boardrooms or other office amenities,” according to a release.

The two-year pilot project will “create hubs that will enable collaboration between like-minded departments and individuals,” says Marc-André Charbonneau, media relations officer at Public Services and Procurement Canada (PSPC) in Ottawa.

“GCcoworking sites are shared office spaces serving multiple departments, offering employees of participating departments increased flexibility while promoting collaboration and a sense of community as part of the federal public service.”

The government wants to demonstrate that employees from multiple departments can successfully work in shared office space.

“PSPC hopes that this pilot will build a sense of community throughout the government of Canada by offering spaces where employees are encouraged to make connections, collaborate and co-create.”

Each site will have Wi-Fi, videoconference and teleconference capabilities, with various types of desks available for the employees who check in, including electric adjustable tables, power doors and tactile signs for workers with visual and physical disabilities.

The federal project is part of the greater Blueprint 2020, according to PSPC.

“The GCworkplace implementation goes beyond space, towards an integrated project delivery model that includes functional area experts in information technology (IT), information management (IM), human resources (HR), security and facilities. Our approach also

**“It’s a bit tricky when employees are all associated with one organization because you’re not getting the diversity.”**

includes design leadership as well as comprehensive support for employees to be successful in their new workplace through robust change management.”

The GCcoworking strategy has five sites in the National Capital Region and three sites in Toronto, Vancouver and Edmonton. As well, Laval, Que. and Dartmouth, N.S. will see two new workplaces open in December.

The other locations outside Ottawa will provide 180 spaces for the government employees. Fourteen federal departments — ranging from the Canada Border Services Agency to Women and Gender Equality Canada and Health Canada — will be participating.

Each of the departments will identify employees who will become involved, says Charbonneau.

## Defining the concept

While it’s a “great first step and it’s an absolute benefit,” it’s not a true coworking space, according to Ashley Proctor, founder of

Creative Blueprint, a coworking consultancy.

“I’m thrilled to see the government of Canada acknowledging that there are so many benefits of coworking and collaborative workspaces,” she says.

“And I didn’t really expect that this was going to come down any time soon, so it’s really good to see them acknowledging the benefits.”

“But, at the same time, I am a little skeptical of some of the claims that they’re making about it being a collaborative space or community that they’re developing.”

There’s a big difference between a shared workspace, flexible or open-concept workspace and coworking, and a lot of people don’t know the difference, says Proctor, who works in Toronto and Seattle and is also executive producer of GCUC (Global Coworking Unconference) Canada.

“It’s really about cultivating community, accelerating serendipity and it’s a very intentional nurturing within the space,” she says.

The physical makeup of entrepreneurial coworking spaces is what truly brings on collaboration and innovation, says Proctor.

“It’s a bit tricky when employees are all associated with one organization, because you’re not really getting the diversity that you would in a traditional coworking

space, where you might be sitting next to someone from a completely different organization [or] background; [you might have] creative folks and tech folks, independent entrepreneurs and non-profit organizations, for-profit enterprises, remote workers and nomadic workers — it’s really that diversity that is the strength of coworking communities, because everyone brings something so different to the table.”

But even if everyone is a government worker, the opportunity remains, she says.

“If they’re coming from different sectors or sections, with different portfolios, it’s really helpful to cross paths with each other to overhear conversation, and to communicate in a more casual setting as human beings, not necessarily in your office behind your desk, with your title. And that can be really beneficial for the government, for sure.”

It’s not just small entrepreneurs who can benefit from coworking, according to Chris Crowell, vice-president of corporate innovation at innovation hub Volta.

“For larger organizations... having a satellite office in our space, it gets them perceived differently when they’re coming to recruit talent,” he says.

## Work is changing

People enjoy the concept, he says.

“We see people have their area where they’re working away in groups. People seem to be excited to come in and work... on a casual or on a day-to-day basis. And we see a lot of the same people back here almost every day. And then we see other people that are in from time to time — it’s a really dynamic mix.”

The sense of community and

support means people don’t feel alone, says Proctor.

“What we’re seeing is an expanded professional network, as well as a personal network; their productivity is definitely increased and some of that just comes from proximity.”

And many of the coworking organizations she has seen have a “community animator” at the front, instead of a receptionist.

“Their job is to introduce them to others who may be working on something similar, who may have something to benefit or learn from each other, who might have common interests, or who would never talk to each other otherwise.”

Targeted events and programming are also a big part of what makes a coworking space shine, she says.

“Some of the events are educational or informative. And it could be someone coming in to help manage your taxes or someone coming in to show you how to do marketing better, and so they’re learning as well; when they’re in the space, they aren’t just working.”

For the government’s pilot plan to bear fruit, the results must be measured, says Charbonneau.

“PSPC will evaluate the success of this pilot based on usage rates of the space and user satisfaction with the GCcoworking experience. This information will be gathered through various surveys and results from technologies such as space-reservation system and sensors.”

Afterwards, the “results will be monitored throughout the pilot program, with a review of all collected feedback on an ongoing basis once all five NCR sites are opened,” he says.

# Strong support for personalized medicine

HEALTH CARE < pg. 3

providing workers with information and reminders, says Weiss.

“[It’s about] ‘Hey, did you know your employer offers this?’ and ‘Here’s how you get access to it’ ... And so, it just becomes a much easier way for people to access and lowering those barriers. And we don’t really have to blanket-target the whole population, we can go up to people that really need it most and make sure they’re engaged,” he says.

“It’s a simple technology that ties all these pieces together, because before, the member had to navigate this on their own.”

If plan members self-select or consent to receive additional information, insurance companies can better reach people in need, says Bonnett.

“I don’t know how widespread it is. And I think it’s a cautionary exercise; you walk before you run there. And you start in a very targeted and thoughtful way to get the information out. And, of

course, if you’re in a collectively bargained environment, where you’ve got a union partner around benefits and health, and occupational health and safety, you want to be engaging your union colleagues on how to do this appropriately as well.”

Benefits communication is critical and often overlooked, says Crowder.

“People think about benefits when they need them; they don’t think about benefits when they don’t need them. So, communication is something that’s extraordinarily difficult when it comes to benefits, regardless of where it comes from.”

While targeted, personalized communications can help increase engagement in wellness programs and benefits for chronic disease management, more than one-third of plan members are still not confident that their privacy will be protected and that personal information may be shared with employers, says Frankel.

“Plan sponsors can more ef-

fectively communicate how privacy will be protected and help plan members to control the use of data and how the importance of those personalized communications can help plan members manage their health and the health of their families.”

People are becoming more comfortable sharing information with trusted organizations, says Weiss. “They’re starting to see the value in doing so.”

And having people opt in for this communication helps alleviate sponsor concerns, he says.

“They know that all their members have been displayed the right disclaimers and understanding of information and they positively opted in versus ‘Well, now I’m on the hook as a sponsor if something happens.’”

## Personalized wellness

As for other possible solutions, there is strong support for personalized medicine, according to Sanofi. Seventy-four per cent of plan members would consent to

giving a sample of their DNA so their physician could prescribe a medication that is most likely to work well for them.

And 65 per cent of plan sponsors are interested in providing coverage for pharmacogenetic testing, says the survey.

It’s extremely promising technology, says Weiss, and it’s also about reducing waste by making sure people have the right solutions right out of the gate.

If someone, for example, starts a claim for a mental-health issue on the drug side, the insurance company could send a prompt asking if they’d like to take a test, he says.

“It just cuts out the pain and suffering for these individuals as they go in and have to find the right types of medications. And it’s way less waste for the sponsor, because they’re not paying for drugs that aren’t as effective.”

Genetic testing costs money, but it’s worth it, says Bonnett.

“If pharmacogenetic testing or biomarkers can help predict a bet-

ter response by this patient over another patient — this drug over another drug — we ought to be doing that,” he says.

“That seems to be not only a very cost-effective way to spend money but a very patient-sensitive way to help them get the right treatment as quickly as possible and not go through unnecessary trials with drugs that are unlikely to work for them.”

In addition, 64 per cent of employees think medical cannabis should be covered by a workplace benefit plan, while 45 per cent of plan sponsors feel the same — up from 34 per cent a year ago. Twelve per cent say their health benefit plan covers medical cannabis, up from eight per cent in 2018.

Also popular are pharmacist-led assessments and prescribing for minor common ailments (according to 51 per cent of plan members), along with access to 24-hour virtual care or telemedicine for medical opinions, including diagnoses and prescriptions (45 per cent).

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# Employers in 'for rude awakening,' says expert

PHARMACARE < pg. 1

private in place as it is, you don't get those savings."

The advisory council explored a variety of pharmacare models over a 12-month period, and each pointed to a single-payer conclusion, according to Hoskins.

The council travelled to each province and territory to hold in-person discussions through roundtables, and it also met with Indigenous governments and representative organizations.

Through consultations with 32,000 Canadians, members came to realize a shared belief that all citizens should have access to prescription drugs, based on need — not their ability to pay, he says.

The June recommendation marks the completion of the council's mandate. Universal pharmacare is now expected to go before the people by way of the federal election process this fall.

"The only way we're going to fix a system which is near the breaking point... is to transform it," says Hoskins.

"The time has come, and hopefully there's sufficient political will. Canadians have indicated that they want it, and we think that this is the best model to achieve it."

## 'Significant savings'

If implemented, a universal pharmacare framework's improved negotiating power and lower administrative costs could save Canadians \$5 billion per year, says Hoskins.

In addition, employers providing drug coverage to staff could save hundreds of dollars per employee while earning relief from the costs of prescription drug insurance, he says.

"We estimate that employers, on average, will save \$750 per employee, per year, which is a significant savings."

The council recommended that employers able to purchase supplementary private drug insurance for workers continue to do so, even as the nature of private insurance participation will change.

Savings expected through a single-payer plan would give employers an opportunity to reinvest in the company, staff salaries and various health benefits, says Hoskins.

Employees are also being asked to contribute more to benefits plans in terms of premium contributions, co-payments, deductibles and increased annual limits.

"Cost-related non-adherence is actually a significant problem and a growing problem," he says.

At present, Canada trails only the United States and Switzerland in terms of prescription drug spending, says Hoskins.

But savings isn't the only driver of the recommended pharmacare overhaul. It's also about uniformity, equity and fairness, he says.

One in five Canadians is currently uninsured or underinsured when it comes to prescribed medicines, says Hoskins.

"Absent a single-payer model, it's difficult — if not impossible — to achieve that important goal of fairness and equity and uniformity and consistency across the country."

## Lower insurance costs

Canadian employers should get behind the national pharmacare plan, as it would solve many challenges around access to prescription drugs, says Doris Grinspun,



With a single-payer plan, Canadians would receive prescribed medications through a single entity.

CEO of the Registered Nurses' Association of Ontario.

"When you have national pharmacare, you also get better drug pricing on prescription medicines," she says. "There are so many different angles that one can look at from an employer's perspective."

Lower insurance costs would put Canadian employers in a better position, compared to international competition at a time when a shortage of labour is a growing concern, says Grinspun.

"They should get behind the plan — and the sooner, the better — because then they also have more influence power and they can work collectively [to] help

influence and push for the issue of bulk purchasing... and proper prescribing."

From workers' health to financial outcomes, universal pharmacare would aid all aspects of the workplace, she says.

"It's not just for employers or employees. It's for everybody... I have no fears, I only see benefits."

## Pharmacare funding

The proposed pharmacare plan would be phased in over an eight-year period, beginning with a formulary covering essential medicines, according to Hoskins.

"Part of the reason why we phased it was because it's enormously complex," he says. "It requires a lot of negotiations — not only with provinces and territories but also with drug manufacturers, in terms of lowering the prices... But it also gives significant runway to both employers and insurance providers to adjust to a new approach."

If implemented, the plan would be funded through general revenue streams, says Hoskins.

"There are many examples in the past where significant national investments — new investments — have been made without it resulting in an added or new cost to Canadians," he says.

"We're offering a model that will reduce [prescription drug] costs... and we're recommending that it be funded as we do health care generally."

Forty-seven per cent of small and medium-sized employers support a single-payer pharmacare framework, while 27 per cent are opposed, according to a 2019 Canadian Federation of Independent Business (CFIB) survey of 2,837 business owners.

"We really don't want to see the burden placed on the shoulders of small and medium-sized business owners, because already the costs associated with drug coverage is a concern," says Emilie Hayes, senior policy analyst at CFIB in Ottawa.

"The smaller the business, the more expensive and the harder it is for them to even have the option to provide it to their employees."

In theory, the opportunity to

negotiate lower drug prices and provide universal care is supported by employers; cost issues remain the main source of concern, she says.

"What we really don't want to see is the funding basically in the form of a payroll tax or increased GST," says Hayes.

The single-payer framework will level the playing field for workers with no employer-funded benefits, says Hoskins.

"The idea that if you're working you are covered is a bit of a myth," he says. "Because if you're precarious or contract or part-time or working for a small business or self-employed, chances are you're not going to have coverage."

"We did look at that very carefully and explicitly to make sure that what we were proposing would address that as well."

## No 'free ride' for employers

But employers expecting a free ride are in for a rude awakening, says Brett Skinner, CEO of the Canadian Health Policy Institute in Toronto.

"Employers who think they can offload their costs on to the public sector and not pay anything for it are dreaming in Technicolor... The tax bill is going to flow back at them somehow."

The current system — while pluralistic — is adequate, says Skinner. The gap occurs when Canadians are required to purchase drugs that are unlisted on their formulary.

"The single-payer model of pharmacare — all it does is shift costs from the private sector to the public sector and from the provinces to the federal level. It does nothing to close the actual gap that people face," he says.

"There's 23 million Canadians who are privately insured who are going to have to accept inferior benefits under a universal plan."

The council's recommendation was "totally predictable," says Skinner.

"The fix was in. They certainly did not genuinely consider contrary advice or give a fair shake to any other alternative option, like filling the gaps in the current system."

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# Workers can request change to work conditions

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their unions. So, I think that we are in for potentially a significant amount of disruption in the federal sector.”

The alterations were developed and brought into force quite quickly, without a lot of consultation or thought put into how they will play out on the ground, he says.

“Most federal employers were not averse to changes and modernization of labour standards at all. What many federal employers are upset about is the fact that there wasn’t consultation — or at least extensive consultation. And there seems to have not been any thought put into these sorts of specific examples, specific disruptions... and whether or not carefully tailored exceptions can be created to ensure that these challenges don’t play out in a negative way.”

A high percentage of the federal sector is unionized, and the code is the floor of rights that people have, says Jodi Gallagher, a partner at Hicks Morley in London, Ont.

“There’s going to be a lot of collective agreements that don’t have a lot of these items. And so, it is bringing up the floor of rights that people have,” she says. “I have a number of clients that are in bargaining right now... And these clients have had to make cost estimates and be aware of what the changes are.”

## Scheduling considerations

One of the major changes involves scheduling, as employers must now give 96 hours’ written notice of an employee’s work schedule and 24 hours’ written notice of a shift change.

It’s a dramatic move, says Ilan Burkes, partner at Harris & Company in Vancouver.

“Economies are changing, and you look at a lot of collective agreements, they’re kind of shifting away from that. Employers are trying to be as nimble and flexible as possible, and now the code will go the opposite direction and require that employees be given [notice] 96 hours in advance before scheduling changes,” he says.

“A lot of collective agreements have this type of language, but what you’d find in those collective agreements is a provision where, if the employer fails to adhere to that, then they have to pay overtime. Here, the employee could just refuse to work that shift.”

The 24-hour provision will not apply in situations that the employer could not reasonably have foreseen, for example, those that present or could reasonably be expected to present an imminent or serious threat to the life, health or safety of any person, among other things, says Gallagher.

Employers will have to change their mindset to comply with these provisions, she says, “because the exceptions are relatively narrow. And so, it requires a different thought process and planning.”

It’s not clear how these exceptions will be interpreted, but there “appears to be a relatively high onus on the employer to justify a change,” says Burkes.

“Operationally, especially on the scheduling side, I think that a lot of [employers] are going to have to think very carefully about how they schedule now, which is something they probably didn’t have to do as much before.”

## Overtime provisions

Another major change gives employees the right to refuse overtime for family responsibilities. The code is “relatively descriptive” on what that means — but this issue has already been addressed in a lot of collective agreements and

time... but for these 24-7, continuous operations, the expectation was not that you would necessarily be giving employees significant paid time off for working overtime. So, it really could impact how employers structure shifts and schedules and their expectations around when employees will be available for work.”

The change captures current practices in many workplaces, says Gallagher.

“The code was silent about essentially banking overtime. And this issue came up in some of the

ing or denying the request or setting out an alternative change, says Gallagher.

“Employers are going to see a lot of requests for people to work from home or changes to their work schedules,” she says. “This is a broader provision than a change to a work schedule because of, for example, child care. So, the duty to accommodate from a family status perspective, I think, is a different situation. Here, it doesn’t have to be related to a family status or a child-care or elder-care situation.”

And that would be dealt with differently because it’s not a human rights consideration, she says.

“It doesn’t give a right to the change,” says Gallagher. “There might be a perception... that it’s actually a right to change your work schedule, work location or other conditions of your employment, when really it’s a right to ask for that and a write to get an answer in writing, so you can’t be ignored.”

Currently, an employee has an entitlement under the Canadian Human Rights Act to request a change if they, for example, have a disability, family responsibility or religious characteristic that entitles them to accommodation circumstances, says Pigott.

“Someone can make a request for a change in their work arrangement, their schedule, their work location, and the employer is required to consider it,” he says. “And while the employer doesn’t have to grant the request, it must provide good faith reasons as to why the change is not possible.”

## Election concerns

One consideration for employers in looking at these changes is the

looming federal election. As seen in provinces such as Alberta and Ontario, Conservative governments have repealed previous changes made by the Liberals, says Pigott.

“The question now becomes — at the federal level — will we see the provincial story play itself out? If a Conservative government is elected this fall, will we see the Conservatives... take another look at the changes that are coming into force on Sept. 1 and take action?”

“These abrupt shifts back and forth, I don’t think anyone in the employer community welcomes that, because the employers are the ones that need to adjust their operations on the ground,” he says. “And the shifting sands of labour standards changes... you want stability, that’s the important thing.”

It’s frustrating for employers because there’s so much change at hand, much of which has been put through in a very confusing way, says Gallagher.

“And then there’s a question mark, because of the election — how much of this is actually going to remain in place afterwards?”

The risk is that employers may bargain some of these components into a collective agreement without caveats, and then a roll-back happens, she says.

“They need to be careful about how they deal with these issues. You can say, ‘To the extent it’s provided under employment standards legislation,’ to the extent it’s provided under the Canada Labour Code, or you can essentially remain silent. And then the code minimum is going to apply... And then if the code minimum goes away, it no longer applies.”

## “The code was silent about banking overtime. And this issue came up in some of the litigation around compensation.”

“quite carefully circumscribed,” says Pigott.

“[The code] doesn’t create certainty as to how these situations will unfold on the ground in a couple of months. And, in some cases, the specificity that’s included in the legislation is at odds with the collective agreement provisions or the practices on the ground in specific industries and specific company. So... how do those inconsistencies, how do those conflicts work themselves out? We just don’t know.”

In general terms, the Canada Labour Code will trump a collective agreement, unless the code specifically says the agreement can be different, he says.

“But the decision needs to be made by an arbitrator... so you need to have litigation and an arbitrator finding that, yes, the collective agreement provides different entitlements than the code. But, overall, those collective agreement entitlements are more generous than what the code reports and, therefore, they’re allowed to continue in force. And so, in either scenario, we’ve got a lot of uncertainty.”

While most people would agree with the right to refuse overtime, says Burkes, the question should be: Who’s going to adjudicate that?

“If the employer says, ‘No, you’re coming to work,’ I guess it’s a complaint that’s filed. And the collective agreements have provisions that are set up to address these types of disputes. The Canada Labour Code doesn’t really have that type of system in place to adjudicate this. And that’s the concern I have. I’m not sure what will happen if the employer and the employee are at odds as to whether there is a true family responsibility issue that arises within the meaning of the code.”

In the collective agreement context, the employer can mandate that an employee work a shift, and the worker can then grieve this, he says.

“What happens here? I’m not entirely sure.”

The code also allows for overtime to be compensated via paid time off.

“It goes to the current practices,” says Pigott. “There’s always been a requirement to pay over-

litigation we’ve seen around compensation for overtime. So, this provision is really codifying what many employers do already. It’s not a surprising or new concept that you can bank overtime. And that you’d have to agree [to] in writing... and here there are parameters around how quickly it has to be used or paid out,” she says.


“It resolves the question mark that was there, because of the silence of the code.... So, I wouldn’t say it’s a significant change; it’s just clarifying how it needs to work.”

## Changing work conditions

As part of the changes, employees with at least six months of continuous service will be able to formally request a change in working conditions, such as work schedule or location. Employers must then respond in writing, either grant-



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# Employment standards first order of business for new Alberta government

*Alterations to overtime, holiday pay, minimum wage put payroll in spotlight*

BY MARCEL VANDER WIER

**August will be no holiday for payroll professionals in Alberta.**

Policy review and alterations are in order following the passage of Bill 2: An Act to Make Alberta Open for Business — the first piece of legislation for the newly elected United Conservative Party, led by Premier Jason Kenney.

The bill has passed third reading and only requires royal assent before becoming provincial law.

Combined with a decrease to the youth minimum wage rate, changes to overtime and general holiday pay will ultimately benefit employers, but they may burden payroll professionals in the short term — particularly those using manual processes, says Karima Balfoul, payroll compliance adviser at the Canadian Payroll Association in Toronto.

“It’s going to be less cost to the employer, but it’s more work in terms of compliance,” she says of the changes, most of which are slated for implementation on Sept. 1.

The current bill undoes changes ushered in by the previous New Democratic Party government in 2018 via the Fair and Family-Friendly Workplaces Act.

A new \$13 minimum wage rate for students aged 17 or younger was already implemented on June 26.

## Banking overtime

Changes to the way overtime is banked will be significant for employers, says Janet Salopek, president and senior consultant at Salopek Associates, an HR consultancy in Calgary.

Presently, employees can bank 1.5 hours of time off with pay for every hour of overtime worked. As of Sept. 1, that will revert to one for one.

“Overtime will impact everybody,” she says. “It’s going back to our old legislation that says time for time. Right now, many employers can’t afford to pay the overtime at 1.5 times.”

The change may also benefit employees, as employers could be more likely to offer overtime in a one-to-one banking scenario, says Tommy Leung, a lawyer at Borden Ladner Gervais in Calgary.

“[It may] incentivize employers to use the system more often, which would benefit employees that would rather have time off versus more pay,” he says. “So, it might help both sides in that sense.”

A written overtime agreement between employer and employee (or employee group) is required before a worker can receive time off with pay, rather than overtime, says Leung.

But the change will sting for those employees who are willing to work more hours — but also want to get paid accordingly, says Balfoul.

“In terms of overtime, I wouldn’t work overtime if it’s going to be banked just regular time,” she says. “Sometimes, you want to work overtime because you’re going to make time and a half.”

“They are the only province that will start banking it as of Sept. 1 at regular. All other provinces are banked at time and a half.”

The 2018 changes to overtime were a major cost to small and large businesses alike, says Salopek.

“Knowing where we are, relative to our recession, this is definitely intended to help employers out.”

Employers can continue to offer banked overtime at a 1.5 rate, but such a move could become an escalating cost as business grows, she says.

“This could have significant dollar impact for businesses if they decide not to follow legislation and stay with status quo.”

The effect on business will vary widely by sector, says Salopek, as

## Employers now have the option to reduce students’ wages, but they are required to provide one pay period of notice.

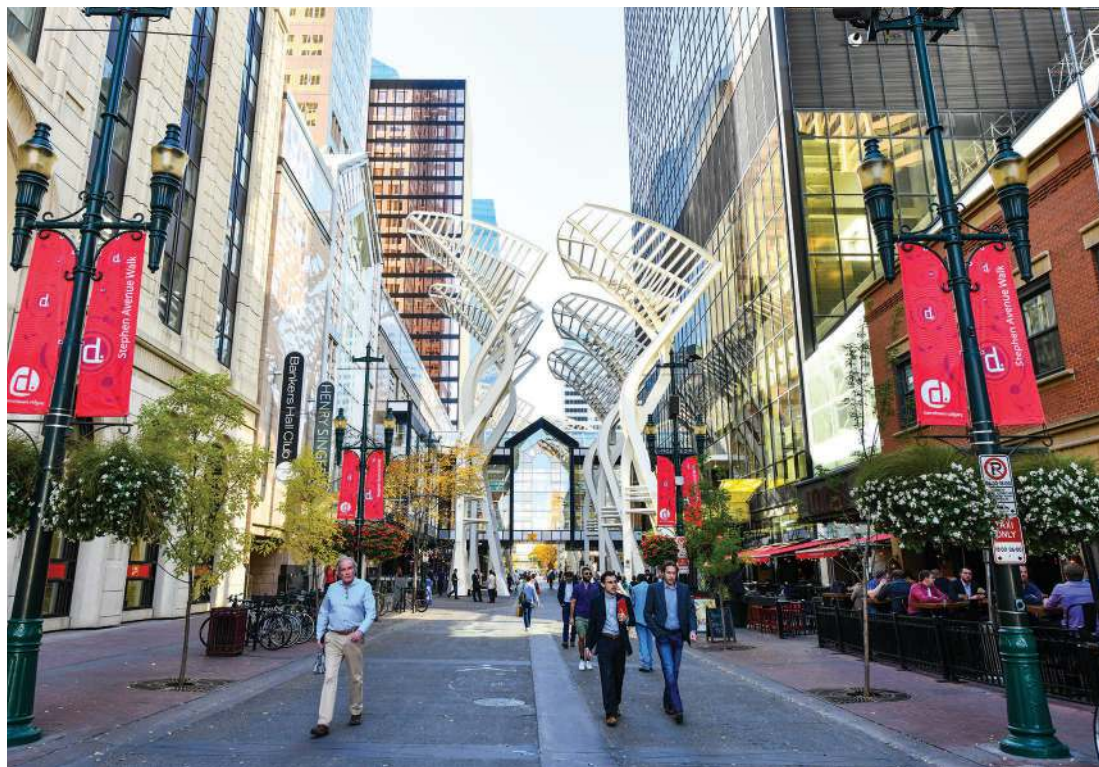
office employees typically have fewer overtime opportunities than trade workers.

## General holiday pay

Rules surrounding holiday pay eligibility will also revert back to pre-2018 standards, with employees required to have worked for 30 days with the same employer in the 12 months preceding the general holiday in question in order to receive pay.

“Under current legislation, an employee is entitled to general holiday pay immediately, as soon as they start employment,” says Salopek.

“That was a pretty big hit when current legislation came into effect, because that’s expensive for employers.”



Employers in Calgary (pictured) and across Alberta will soon be operating under refreshed employment standards, following the passage of Bill 2: An Act to Make Alberta Open for Business.

Calculation of general holiday pay will also revert to regular/irregular workday distinctions, affecting employee eligibility for pay as of Sept. 1.

“Whether or not you get holi-

fall two dollars for students aged 17 and under.

The reduced wage applies to the first 28 hours worked in a week by a student — while school is in session or during a vacation break recognized by the educational institution. Any more time worked while school is in session would be compensated at \$15 per hour.

“They’re trying to look at it through two lenses,” says Salopek of the government’s choice to support a \$15 minimum wage for adults.

“Helping businesses coming out of the recession but also staying true to the fact that, for some people, that minimum wage needed to go up.”

Employers now have the option to reduce students’ wages, but they are required to provide one pay period of notice, she says.

“What they should do is give as much notice as they can to their people if they are going to reduce it,” says Salopek.

“It depends on the business. If they can afford to hold the rate and not reduce it, that’s optimal, but, honestly, there’s some businesses here where the margins just won’t allow it.”

Giving as much consideration to employee morale as possible can help ease the blow to staff, while meeting one-on-one with workers to share the news is optimal, she says.

“If they’re going to reduce it — and they can — they need to help their employees understand that it’s for business reasons.”

Continuing to pay the \$15 minimum wage could help with retention, says Balfoul.

“Employers may want to keep the \$15 that they are paying right now because they feel maybe that it’s going to have an effect on the workplace.”

day pay — and how much you get — depends on whether it’s a regular working day for you or not and whether you’re working that holiday or not,” says Megan Kheong, an associate at MLT Aikins in Edmonton.

In 2018, all employees became eligible for holiday pay — at the very least, earning their average daily wage, she says.

“A lot of employers were not happy with the 2018 amendments for holiday pay because what it effectively did is it did away with the distinction between whether it was a regular workday or not for an employee.

“It was a substantially bigger load for some employers to bear,” says Kheong. “For some employers, it was an increase of thousands of dollars per year.”

The changes will have a wide impact on Alberta employers as of Sept. 1, she says.

“Regardless of what area they work in, regardless of the type of employee they hire and, really, regardless of their kind of pay structure, that’s going to be something that employers are going to see an immediate impact on.”

## Student minimum wage

Reductions to minimum wage by council order saw the base rate

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# Employee's right to refuse work highlighted in Ontario transit worker case

*Physical conduct with supervisor not considered dangerous condition by tribunal*

BY JEFFREY R. SMITH

**A**n Ottawa transit worker's unhappiness with how his employer handled his harassment complaint did not mean he was in danger in the workplace, the Canada Occupational Health and Safety Tribunal has ruled.

In *Hassan v. City of Ottawa (OC Transpo)*, 2019 TSSTC 8 (Can. Occ. Health & Safety Trib.), Abdulkadir Hassan was employed with the City of Ottawa as a bus driver at the city's transit agency, OC Transpo. On Oct. 14, 2017, Hassan's bus was parked at a station when an OC Transpo mobile supervisor told him the control centre was trying to contact him to assign a route. The supervisor was standing outside the bus doors as they discussed the matter.

Hassan stood up from his driver's seat and tried to walk off the bus toward the supervisor, but the supervisor put his hand up and held him, then pushed him back while saying, "Go and do your run." Hassan asked the supervisor why he had touched and pushed him, and the supervisor explained he hadn't meant to and apologized.

Hassan called the control centre and asked for special constables to be dispatched to deal with the incident, but the control centre attendant coached him to try to resolve things through discussion with the supervisor. They discussed matters for a short while and the supervisor insisted it was a misunderstanding and he hadn't intended to make physical contact with Hassan — he was making a hand gesture when Hassan walked toward him and came into contact with his hand.

Hassan again requested a special constable, so he was instructed to go to another nearby station and wait for one there.

Hassan later emailed management to say he didn't feel hurt from the push, but he felt the control centre tried to cover for the mobile supervisor. He added that he felt "belittled and helpless." Hassan went on medical leave and later provided a recommendation by his physician that he be placed on accommodated duties, so OC Transpo assigned him to one of its garages to assist others and clean buses. The garage assignment began on Jan. 31, 2018 and was to run for one week.

OC Transpo investigated the incident, but after reviewing statements and interviewing the parties involved, the supervisor and committee both determined there was no workplace violence.

## Modified duties ended quickly after encounter

However, on his first shift back, Hassan encountered the same mobile supervisor who had been involved in the incident as he exited the washroom. There was no physical contact and no exchange of words, but Hassan later claimed the supervisor sneered at him and "stared him down."

Hassan didn't immediately report the encounter, but he emailed his supervisor the next day to say he didn't feel safe working in the same location as his alleged assaulter. The supervisor suspended Hassan's modified work and reviewed the incident. On Feb. 2, the supervisor decided there was no safety issue — the mobile supervisor spent "95 per cent to 98 per cent of his working time" on the road dealing with service issues, even if he was based out of that garage, and there was no reporting relationship between the two men — and told Hassan he was expected back at work that day.

Hassan saw his doctor again and was cleared to return to his regular driving duties as of Feb. 4, 2018. Hassan's next shift was Feb. 5, but instead of coming to work, Hassan invoked his right to refuse to work under the Canada Labour Code, which states "an employee may refuse to use or operate a machine or thing, to work in a place or to perform an activity, if the employee while at work has reasonable cause to believe that... a condition exists in the place that constitutes a danger to the employee."

The work refusal referred to both encounters with the mobile supervisor as well as other incidents in which Hassan had requested special constables to be dispatched but was refused.

Hassan's work refusal stated "my entire requirement of modified accommodation and medical attention is based on assault (the mobile supervisor) has done to me. The matter is not if (the supervisor) is a threat to me but my medical requirement accommodation is based on (being) placed in a situation away from (the supervisor) and radio transmission on bus or control, during the period of medical requirement for modified duties."

OC Transpo's workplace health and safety committee investigated Hassan's work refusal, but it determined that there was no danger to him — though it made recommendations about "internal processes in regards to employee relations and immediate response and resolution of issues" and measures to help employees understand the protocols of the control centre in responding to calls for assistance.

Hassan filed a claim for workers' compensation benefits for psychological stress stemming from the incident, but his claim was denied.

Hassan continued his work refusal, so a delegate from Employment and Social Development Canada (ESDC) was called into to investigate. The delegate found that the Oct. 14, 2017 incident could have been resolved internally if OC Transpo had properly dealt with it, but OC Transpo and Hassan had then agreed upon a "competent person" to investigate the Oct. 14, 2017 incident — as required by the Canada Occupational Health and Safety Regulations.



An Ottawa bus driver was not in danger on the job, according to a recent tribunal decision in Ontario.

The delegate also found that Hassan had been cleared by his physician to return to his regular duties and there was no indication he should avoid contact with the mobile supervisor. As a result, Hassan was not exposed to a workplace danger at the time of his work refusal.

Hassan appealed the delegate's decision, arguing that the investigation failed to take into account previous similar incidents and didn't properly investigate his harassment complaint — putting "my life and health in danger by not facilitating a safe work environment." After the appeal, the agreed-upon "competent person" completed a formal investigation and found Hassan's complaint to be unsubstantiated.

The tribunal noted that the key concept in the right to refuse work involves "danger," which the code defines as "any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered."

The tribunal also pointed out that it had been established in law that the right to refuse work in the code is intended to be "an emergency measure" and "is not the usual way in which hazards are to be addressed and risk is to be driven down."

## Reasonable person wouldn't perceive threat: tribunal

The tribunal found there was no evidence of a condition that presented a threat to Hassan's life or health. The work refusal happened after the encounter between Hassan and the supervisor outside a washroom in which Hassan said the supervisor sneered and stared at him.

There was no physical contact, exchange of words or gesture

and the whole thing lasted for a few seconds. In addition, Hassan didn't immediately refuse to work — he only did so the next day after consulting his physician and being cleared to resume his normal duties as bus driver, said the tribunal, in finding there was no danger to Hassan in his working conditions between Jan. 31 and Feb. 5, 2018.

"I have difficulty characterizing this situation as a threat," said the tribunal. "A reasonable person observing the scene is not likely to conclude that this encounter constituted a threat to one's health."

The tribunal acknowledged that the work refusal came in the context of a prior incident that traumatized Hassan and caused him

to go on medical leave. However, both an independent, agreed-upon investigator and the ESDC delegate found the complaint to be unsubstantiated. The tribunal itself also found that, based on Hassan's description of the prior incident, there was no act of violence in the workplace.

The tribunal confirmed the ESDC delegate's finding there was no danger warranting a work refusal, noting that Hassan may have felt unsafe because he believed future requests for assistance wouldn't be met to his satisfaction, but it was speculation on his part and not objective proof he was in danger at the time of his refusal.

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## IN FOCUS HR LEADERS TALK

# Riveted by RETENTION

With unemployment low and multiple generations in the workforce, retention can be a challenge. We talked to 5 HR leaders to find out how they're tackling the issue.

By Sarah Dobson

### Brandie Yarish

vice-president of people and culture and CHRO at Enmax

*The utility is owned by the City of Calgary and has 1,700 employees*

Employee retention has definitely become more of a priority these days, according to Brandie Yarish, vice-president of people and culture at Enmax in Calgary. And there are a few reasons for that.

"There's a recognition in terms of the amount of time and expense [involved with] turnover, as organizations are becoming increasingly complex, and the pace of change is accelerating," she says.

There's also a big demographic shift happening across Canada, with baby boomer retirement making it harder to find key talent to fill leadership roles, says Yarish.

"Any time you have somebody leave the organization with specialized knowledge and skills and you're trying to backfill and get business operations running smoothly again quickly, [it] is very challenging."

As part of the retention focus, Enmax focuses its energy on employee engagement and moving the needle, she says.

"We're coming at it through a proactive way, to go at it strategically to drive a number of outcomes, including retention," says Yarish. "When we focus on engagement, we get a whole bunch of byproducts beyond just retention — we also get to see our safety improve, we get to see our productivity improve and our overall performance as an organization."

As a result, the utility has concentrated on leaders and assessing their impact on engagement, she says.

"We're really focused on making sure that all of our supervisors have the appropriate leadership skills and experience to provide what's needed to our workforce. So that's a key area of focus for us, as is making sure that our all of our employees understand our vision and our purpose in making them feel like they're part of the organization and part of our overall community."

To better understand employee preferences, engagement data can be cut based on age, for example, so that provides some trending numbers, says Yarish.

"We are seeing some new values that are coming from those [workers] that are entering the workforce and what really matters to them," such as flexibility and work-life balance.

"I think a lot of the things that the millennials are asking for, the other generations were too fearful to ask for, but they want them, too."

The 1,700-employee organization also focuses on recognition, she says.

"Acknowledging people for their contribution and making sure that they feel appreciated goes a long way in terms of really making them feel part of something and having a sticky factor in terms of wanting to stay with the organization."

The utility also has variable pay programs that are performance driven, says Yarish, "so everybody within our organization is eligible for short-term incentives, which includes all of our unionized employees, which isn't as common. And that's based on hitting corporate objectives, individual objectives, as well as business objectives."

Enmax has also prioritized filling positions internally, and it completes a talent assessment annually, focusing on succession planning, she says.

"There are development plans that are built in-house for individuals [and] we're regularly monitoring who's available to take on a stretch assignment or the next role. And while we still need to augment with external skillsets, just based on where the business is going, and some of the new skills and experience that are required, we very much do move people throughout the organization and give them the opportunity to grow their careers."

But there's one area that could use improvement — improving retention when it comes to diversity and inclusion, says Yarish.

"That's another area where Canadian employers have a lot of work to do in developing the specific solutions to ensure that we're putting the appropriate supports in place to enable diversity and inclusion and that once we attract people to the organization, they don't feel isolated or that they don't have support to be successful and stay with the organization. So, that's another area where we want to focus... even if we just look at females in the workplace, a really important retention factor would be making sure that we've got good support for women when they come back from maternity leave."

Another particular challenge: How to retain the right employees versus the wrong ones, she says.

"There's some employees that, frankly, would be better off moving on. And so how do you ensure that when you're focused on retention, you're focused on the things that matter most to the employees you want to retain, but not making it so attractive and so enticing that, at the same time, you're retaining all of those that really should have left a couple years ago and gone on to something different?"



Research has shown most people don't leave companies, they leave managers, so building up the management team is critical to retain employees, according to Andrei Fartais, HR director at Church & Dwight Canada.

"The damage generated by a non-skilled manager can have a ripple effect throughout the organization. So you really need to pay particular attention to how you select your managers and how you invest in them," he says.

"It's the responsibility of each and every manager to make sure that their particular groups are directly contributing to raising up the engagement scores."

As part of that, the company gauges employee engagement through an interactive survey tool.

"It's your barometer in terms of where you are," says Fartais.

"The new approach that we're trying is pushing this from HR, where we're not the party responsible, over to the managers. So it's really... the functions that have the responsibility to make sure that they engage with the tool, that they understand it, and then that they put together very simple solutions in terms of the opportunities identified by function."

"At the end of the day, it's the responsibility of each and every manager to make sure that their particular groups are directly contributing to raising up the engagement scores."

The household goods manufacturer faces a few challenges on the retention front, such as a low unemployment rate in Quebec and increased competition from the likes of employers in the cannabis industry seeking skilled workers, says Fartais.

Then there's the generational mix, with new workers who are very selective and have different motivators, he says.

"It becomes a very challenging environment for the HR function and how you stay competitive throughout all of that."

One way to meet that challenge is to start at the beginning: Assessing fit factor during recruitment. Essentially, it's about assessing job candidates for how they'll fit with the company's culture, with a very clear target in mind, according to Fartais.

"If you understand how that works, and if you've done a bit of a marketing exercise, and you know your brand, and your employer value proposition, you should be able to identify that."

The company has a turnover rate below seven per cent, and part of that is attributable to targeted behavioural interviewing during hiring, says Fartais.

"We're going to drill down to the bottom line of what the candidate has done in a certain context."

Church & Dwight then combines these results with psychometric analysis, he says, and then rolls all that into the employee's subsequent onboarding, development and engagement, he says, "so hopefully, it will get to some retention numbers."

On the perks side, the company is "doing some of the classics," says Fartais, such as offering employees summer hours.

"It is a trend and, certainly, this is something that we see more and more people coming into the workforce and asking about — work-life balance."

But to make sure employees "have skin in the game," Church & Dwight shares corporate profits with them, says Fartais.

"So that that's from top to bottom... from the line operator to the CEO, everybody is part of a bonus plan that has exactly the same metrics. Of course, the incentive percentages vary by position but the core metrics are universal," he says.

"Since we introduced this... all-employee bonus, we've seen some very interesting results and numbers really shaping up nicely in terms of retention."

Church & Dwight also makes a point to do exit interviews, knowing it's good practice to try and understand why people leave, he says.

"(It's about) being humble and trying to open yourself to 'Hey, we don't know what we don't know, tell us how we can be better. And trust us with that information.' That has proven to be beneficial."



**Andrei Fartais**

HR director at Church & Dwight Canada

*The Mississauga, Ont.-based household goods manufacturer has 300 workers in Canada and 5,000 globally*



**Ingrid Huss**

director of total rewards and HR operations at Dynacare

*The health and wellness solutions provider has more than 3,000 employees across Canada*

While the retention of key talent should always be a priority, newer trends can make a difference, according to Ingrid Huss, director of total rewards and HR operations at Dynacare in Toronto.

"Our current record-low unemployment rates and strong job market are definitely highlighting the need to focus on retention. I know in our industry, we constantly have a need for skilled, trained individuals in certain roles," she says.

"Key talent is always something you need to focus on retaining, but sometimes there are economic situations... that make it more challenging at times to retain people because there are more opportunities people can choose from."

Retention at Dynacare is also important when there are major changes, such as an office relocation or business transformation, or when there's a stronger need for hiring certain skill sets, says Huss.

"We have highly specialized skills in some areas, and any time you have an initiative of that nature, it's really important to ensure you have an appropriate transition of work processes and you're not losing the skills that you need."

And if the 3,000-employee company is having trouble filling certain specialized positions, such as a medical lab technician, it needs to ensure it's retaining existing talent, she says.

Turnover is looked at on a monthly basis at Dynacare, along with feedback from engagement surveys, which can be segmented down, for example, by different functional areas or length of service, says Huss.

"Retention is really an outcome that we want to see as a result of having engaged employees," she says.

"We want employees to feel connected to their work and to the company, and research has shown that engaged employees will definitely provide that discretionary effort you need to deliver on your business results."

And while the company has an overall philosophical approach, doing many things that should apply to everyone, it also tailors

its offerings to different groups, says Huss.

"For example, leadership development — we tend to focus a little bit more on people that have people leadership skills."

To support engagement, Dynacare implemented a recognition program and it regularly monitors utilization rates, she says.

"We found that there's been considerable uptake on that. I think it's something, at least for our organization, that was new and different."

It also holds focus groups and, most importantly, follows up on feedback by taking appropriate actions, says Huss.

Dynacare has also introduced wellness programs, such as on-site exercise sessions, she says.

"We think it's important that people feel energized and we want to promote both physical and mental emotional well-being."

The company has also had some momentum in enhancing talent selection internally, says Huss.

"We know that it's not possible to fill all vacancies from within so we do hire externally, and it's good to have the right balance between the two because we want to give internal people the opportunity to grow and progress in their careers and, at the same time, we want to bring in fresh ideas."

When it comes to retention, compensation and benefits are foundational elements, she says.

"It's really about the things that you do above and beyond that make the difference, and that's certainly something Dynacare has decided to focus on in terms of really trying to enhance the employee experience through reward-type initiatives, like career pathing, leadership development, even just simple recognition on a regular basis."

As for particular challenges around retention, not surprisingly, budget is an issue, says Huss.

"It's not like there's a bottomless well that we draw from in terms of financial resources, so we really do — when we're looking at where we're going to invest and what we're going to invest in — think about it more broadly and more strategically in terms of 'Where do we think we're going to get the best return?'"

Retention used to be the holy grail as an HR metric — but HR professionals need to rethink what is the new norm for retention, according to Denise Hayes, CHRO of Moneris in Toronto.

In tracking both internal data and external benchmarks, the highest level of turnover is among the millennial demographic and those with less than three years' service, because they are moving on to the next new thing, she says.

"When that first started happening, we wondered: 'Did we have a problem?' But as we delved into it more, my question, really, is is this the new norm? And I believe that it is."

Hayes says she is seeing a change in the focus on retention and its importance.

"I see it personally as really being highly affected by change and employee expectations. And, certainly the business world — technology's advancing, there's economic factors, there's business evolutions, etcetera. But I'm seeing a real change in employee expectations around what they want from their workplace experience," she says.

"The millennial population are definitely more keen to advance [their] career and be less hesitant to make moves from organization to organization, whether it's to grow upward, up the corporate ladder, but also, we're seeing they will change just to do different things and have different job experiences."

To gauge the need for retention initiatives, and to focus strategy, Moneris relies heavily on data and feedback from employee surveys, says Hayes.

"We cut the data by millennials and gen X and boomers, and we're seeing some really distinct drivers of engagement and drivers of retention."

In the millennial population, for example, drivers of retention are all around career, career goals and recognition. For gen-Xers, it's around action taking, so having confidence that Moneris will respond to the feedback from surveys, their purpose and inclusion. And for boomers, it's about manager feedback and career paths, she says.

"This data is really important because it actually enables us to... focus our retention strategies around the various populations and, where possible, cross-pollinate, so that we're not delivering a multitude of strategies, but we're really being both focused and cross across generational boundaries where possible."

If employers don't differentiate how they approach retention discussions with changing demographics, there will be constant churn, says Hayes.

"It will be hard to drive an engaged workforce, but if there's

stratification around your retention focus, based upon your own personal organizational data, I think that you can still run a very successful organization and have good key talent — you're just spinning it to what makes sense for your business and for your culture."

#### Several retention initiatives

The company has several initiatives around retention, such as formalizing career development plans. It also has seen a huge impact in focusing on its culture, and reinforcing and re-establishing corporate values, says Hayes.

"If you're doing good things and the right things around your culture, and you're consistent with your messaging and what you're communicating back to employees and you act on it, I think you can really have a differentiator in terms of that employee experience, that employee relationship, that ultimately does positively impact retention and engagement."

There's also an online learning platform and a recognition program for employees, along with greater interest in flex arrangements, says Hayes.

"That's one of the areas we've gotten feedback on [in] some of the surveys that we've done. And so, over the past a year or so, we have formalized all of our flexible work arrangements, whether it's flex hours, whether there's flexibility around working from home," she says.

Moneris also does regular check-ins around performance, with annual and mid-year talks. It's about calibrating or fine-tuning approaches for the second half of the year, says Hayes.

"We really encourage keeping the ongoing dialogue and conversation going to be able to course-correct where needed. And we really equip our leaders and put a focus on training them and preparing them so that they can go out and have these conversations," she says.

Moneris also does stay surveys and exit interviews, to be more proactive and predictive.

"We try to get out ahead of it and say, 'What's keeping you here? Why do you stay with us?'" she says. "We're getting some really consistent, reliable data that we can actually action and been actioning, and now we're starting to see results from the actions that we've been taking."



**Denise Hayes**

CHRO of Moneris in Toronto

*The financial technology company has 1,750 employees across five offices in Canada*



**Ed Kwan**

vice-president of HR at GCT (Global Container Terminals) Canada

*The Vancouver-based company has 2,500 employees*

With a changing industry — as shipping lines grow bigger and more consolidation leads to tougher competition — retention is an important issue for GCT (Global Container Terminals) Canada.

The war for talent is heating up yet again, partly because of baby boomers retiring and fewer entrants coming into the workforce, says Ed Kwan, vice-president of HR at GCT in Vancouver.

"There's a demand and supply issue there."

The other issue is the arrival of millennials to the market, he says.

"It's not a job-for-life mentality; it's not just a paycheck. They don't hesitate to move and they want to be passionate about what they're doing. So, if they don't feel a pretty strong sense of purpose of why they're there, and what value they're creating, they won't hesitate to move on."

There's also a greater recognition that it's not just the bells and whistles or the technology and equipment that retain people.

"People and culture really is a competitive advantage," says Kwan. "We're starting to see much more of an emphasis on creating a culture that really attracts and retains people."

To gauge its retention efforts, the 2,500-employee company looks at its voluntary turnover rate, which sits at about seven per cent. GCT also focuses on engagement levels, and it recently held focus groups among the different departments to garner further insights, he says.

"I like to peel back the onion and understand, 'OK, what really is on the minds of employees?'"

While the company pays well, says Kwan, one of the challenges around retention is the 24-7 shift environment.

Many workers — especially newer ones — are keen on greater work-life balance, he says.

"This new group, it's a very different mentality right there. They'd rather not have the overtime in some cases, because they've got things to do."

So, the company has worked to provide shift schedules that create more stability, such as four days on, four days off or 12-hour days. While it has taken people some time to adjust to the new approach, they now appreciate it, he says.

GCT also has a recognition program that includes a monthly employee appreciation lunch and a program run by a third-party vendor that gives out experiential awards — popular with employees looking for their next Instagram photo op, says Kwan.

"When you have a performance-based environment, and you have high achievers, the tendency is you're always looking for what's next. And sometimes you don't take that time out to celebrate and acknowledge what we've accomplished and what people have done."

"[It's about] trying to build that habit and culture across our management group. And... it's not an employee of the month — there will be some months where there won't be anything, and they'll be other months where we might recognize two or three people or, in some cases, a whole department... so it just helps connect our organization."

Emphasizing opportunities for growth development and career progression are also key, he says.

"We tend to hire, at the front end, capable people, and we promote from within before going external, as much as possible."

It's also important to have strong leadership at the company, and let people know that they're making a difference in their role, regardless of where they are in the organization, says Kwan.

"When people contribute and perform and are engaged and have a good attitude, then there's typically opportunities for progression."

GCT has also worked hard to clarify roles and responsibilities across departments, he says.

"The nature of our business being logistics, there's a lot of interdependencies across different departments. And there's this heightened focused on, 'OK, how do we change process? How do we become more efficient? And how do we leverage technologies?'" says Kwan.

"And as we go through all of that change, that impacts what people thought they had responsibility for, and what they're now doing going forward. And how does this impact them? [So] how do we work together effectively, as we make these changes?"

Silos start to build up, he says.

"So, we need to constantly look at 'OK, let's make sure we break down those silos, make sure we're working collectively as a team, as opposed to competing for the work — there's plenty of work to go around."

## HR METRICS

# There's strength in numbers

## Moving people analytics out of the HR silo to include corporate partners

By Tony Bennett

**P**eople analytics is now an important human resources sub-discipline alongside labour relations, compensation and employee development. This is the HR work that helps front-line and senior leaders make evidence-informed people decisions.

While all organizational success comes through its people, organizations are integrated organisms and leaders also require the financial, operational and systemic tools to bring about this success. HR cannot do this on its own. An integrated approach to analytics is essential.

Improving the skills, knowledge, competencies and motivations of employees is a major contributor to organizational success. In the private sector, investing in human capital through practices such as proactive safety programs and strategic workforce planning can be leading indicators of financial performance, according to the 2008 study "Toward a Human Capital Measurement Methodology" in the journal *Advances in Developing Human Resources*.

In the public sector, investing in people has seen improvements in employee engagement lead to positive outcomes in student grades and patient care, according to the 2018 study "Work engagement supports nurse workforce stability and quality of care: Nursing team-level analysis in psychiatric hospitals" in the *Journal of Psychiatric and Mental Health Nursing*.

Harnessing knowledge about employees is essential. And good HR analytics is about storytelling. The best human capital data is ineffective unless it drives discussion and action.

HR can bring the art of storytelling to ignite the emotion needed to drive action, according to the 2015 study "Data-driven storytelling: The missing link in HR data analytics" in employment relations.

Numbers are not engaging — change comes when the stories told by the numbers emotionally engage leaders.

Leaders need to know what is broken (through performance reporting) and they need more than experiential evidence. They need to know what is working and what is not, and they need to know the evidentiary foundation on which they can base decisions.

HR, through an evidence-informed approach, can lead leaders to action. Data and knowledge is not enough. It is dangerous to think people analytics is the only tool leaders have to build success. Organizations are complex, interdependent organisms. And the decisions leaders make to improve their workforce are not made in isolation.

Financial decisions affect people decisions. Evidence-influenced approaches — people analytics included — are affected by IT systems and databases. Operational goals affect the workforce. People decisions affect all of these. An



Credit: Cimber 1959 (shutterstock)

integrated approach to organizational analytics is necessary.

There is an human resources saying that there is only one front-line leader at the end of the funnel. That leader lives at the bottom of a funnel of operational and corporate information, programs and demands and is the single touchpoint on which organizational success depends.

This front-line leader makes decisions about people, dollars, capital and operations — and never in isolation. Therefore, the evidence

through which they make their decisions should not be provided in an isolated, piecemeal manner.

To best support the front-line leader, HR and its corporate partners (including finance, IT, corporate planning and purchasing) need to work together. This can involve the following:

**Build relationships:** Without HR and its corporate partners working together, the front-line leader will receive a bunch of numbers from HR, finance and others that are at best confusing or at worse contradictory.

For example, finance data could show overtime costs are increasing while HR tells the leader that the ratio of overtime to worked hours is decreasing. Both could be right, but without the combined context, the front-line leader can be confused and ignore both stories. If HR and finance shared data and provided an integrated story, the front-line leader now has the evidence needed to make change.

**Set up working groups:** Talk to each other. Ideally, this would be a matter of course. But until the relationship is strong enough, set up monthly or quarterly meetings to share and discuss the analysis — including what story should be told to leaders.

**Build tools:** Once HR and others supporting the front-line leader decide what integrated evidence should be provided, build a common language and definitions.

An FTE to HR (an assigned or expected portion of a full-time position the employee works) can mean something different in finance (the total worked hours as a ratio of expected annual hours). Supporting quarterly reports or dashboards should be available at the same time to leaders.

**Build storytellers:** Expect and build HR to be the people's storyteller. HR professionals usually do not go into HR because they are number people; but they can be storytellers.

There's a ways to go before HR can provide leaders with the integrated people story, but the foundation is being laid. HR needs to keep building the analytic literacy and the relationships to support leaders this way because the leaders are getting it — they are asking the right questions, and they are asking for the story: the diagnosis, the prognosis, the prescription and the treatment.

If HR doesn't become a leader, it will be left behind.

Organizations can build value through the effective, efficient and impactful attraction, retention, engagement and development of the workforce.

To achieve this, employers cannot be content with simply measuring human capital.

To see real returns on investments, organizations should be using a full continuum of organizational evidence.

This creates an analytics culture that uses strong evidence-based methodologies, according to *The ROI of Human Capital: Measuring the Economic Value of Employee Performance* by Jac Fitzenz, and provides the information organizations need to know about what their workforce was, is and needs to become.

Human resources needs to position itself as the enabler and champion of a fully integrated human capital continuum. To do this, human resources needs to understand how to use people analytics and the analytics of its partners effectively, efficiently and impactfully.

If human resources does not take the lead role in integrated analytics, it becomes relegated to a transactional, advisory administrative function — not the strategic organizational leader it desires to be.

*Tony Bennett is director of HR analytics and planning at Alberta Health Services in Edmonton. He can be reached at [tony.bennett@albertahealthservices.ca](mailto:tony.bennett@albertahealthservices.ca).*

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HR CSR

# Becoming a social purpose employer

*Many companies are moving beyond basic CSR to a holistic approach*

By Coro Strandberg

**I**s corporate social responsibility (CSR) falling from grace? After 20 years advancing into corporate Canada, the practice may be sputtering, according to a recent study.

Leader companies are finding that this long-standing approach to embedding social, environmental and stakeholder considerations in business strategy and decision-making doesn't necessarily generate the business or social results they were hoping for.

This study by Strandberg Consulting was based on research conducted for the Canadian government in the fall of 2018, involving interviews with 32 companies known to have established CSR practices.

Most companies had a formal CSR approach and strategy, with policies, goals, targets and key performance indicators or metrics. They were asked to describe their current CSR approach and shifts in their CSR practices over the past five years, and it was evident it has become a more formalized practice in business, with leaders moving beyond "CSR in business" to "social purpose in business."

A significant minority said they don't use the term CSR and think it is passé: "CSR, as a term, is outdated" and "We consider ourselves post-CSR."

Looking at the comments, there's an emergence of a new approach to social impact in business. When asked if their CSR approach had shifted in the past five years, those interviewed cited the following:

**Approach:** They changed their approach from scattered, ad hoc activities to more strategic efforts with goals and targets.

**Focus:** They changed their focus from philanthropy, donations and community investment to an enterprise-wide approach to embedding societal aspirations into everything they do.

**Relationships:** They shifted community relationships from transactional, one-off, short-term efforts to a transformational style where they seek durable, systemic improvements that address the root causes of societal issues in communities in collaboration with community partners.

Many respondents had adopted or were in the process of adopting a "social purpose" as the reason for the company's existence. Notably, they don't use CSR terminology.

They view social purpose as a more holistic approach to the business, in which the business model is infused with social intent and not treated separately.

A social purpose business is defined as "a company whose enduring reason for being is to create a better world. It is an engine for good, creating social benefits by the very act of conducting business. Its growth is a positive force in society," according to the Social Purpose Institute, a program run out of the United Way of the Lower Mainland in

Vancouver.

The findings suggest a continuum or pathway of CSR practice: From level one, community investment, to level two, CSR strategy, to level three, CSR integration, and level four, social purpose.

Almost half of the companies appeared to be at level four: They indicated they had or were developing a social purpose or mission as the reason for the company's existence.

"We haven't used the term CSR for a long time. We are a social purpose business. The difference between a social purpose business and a business with a CSR program is that a CSR program is bolted on. CSR programs thus have an indirect connection to the business, whereas social purpose businesses have mechanisms that address social purpose holistically. All our programs are tied into supporting that social purpose, which is generally geared toward improving the community or society and that's how we operate. Our social purpose is linked into our mission and our value statement; the overlap is pretty much the entire thing. So, everything is aligned that way."

## Other trends in CSR

Other CSR shifts in the past five years include integrating CSR considerations throughout the business, becoming more data-driven and community investment (philanthropy) practices:

**Integration:** Companies are embedding social and environmental considerations into all business decisions. For example, employers are including CSR in the roles of HR, finance and other functions.

**Data-driven:** A number of companies are now taking a data-driven approach, improving the ways in which they track, measure and collect data and using data management to inform the CSR strategy.

**Community investment:** Companies are moving from *pro bono* volunteering and granting programs to more strategic hands-on partnering, and they are also providing greater access to resources such as space, employees and other assets. They are shifting from supporting many non-profits in a non-impactful fashion to partnering with a reduced number on higher-impact activities.

## Implementation barriers

Companies pursuing CSR strategies confront more implementation barriers than those advancing a social purpose, according to the study. The difference between having a CSR strategy and having a social purpose business model is profound.

Employers that have a CSR strategy often struggle to gain buy-in and take-up from senior management, board and executive leadership, whereas companies with a social purpose have already secured that support: Leaders will have adopted the



Credit: LittlePerfectStock (shutterstock)

social purpose and committed to embedding it enterprise-wide and across the business model — such is the nature of a social purpose business.

That said, here are the challenges employers face in implementing CSR priorities:

- lack of buy-in from senior management and executive leadership
- lack of evidence of the CSR business case
- lack of time and resources
- difficulty in shifting the cor-

porate culture to embed CSR principles.

These barriers are interlinked and relate to challenges in understanding the business benefits and the role of business in social change. In fact, the most common solution identified by interviewees is to develop the CSR business case to get senior management on board.

Although admittedly based on a small sample size, the results of this study show that Canadian employers are evolving in their ap-


proach to social impact. Leaders are realizing that by aligning with a social purpose as the reason for existence, they can generate greater business and social impacts.

Arguably, HR leaders have the most to contribute to this new social purpose in business agenda. They hold the reins. And the time is now.

*Coro Strandberg is president of Strandberg Consulting in Vancouver. For more information, visit [www.strandberg.com](http://www.strandberg.com).*

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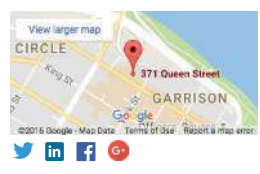
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# Getting Mature Workers back into the Workforce

## The Mature Workers Action Team Project

BY ERICA BLAIN, MANAGER, PROFESSIONAL STANDARDS, DEPUTY REGISTRAR CPHR ALBERTA

**There is no denying that the population in Canada is aging. Canadians are living longer and remaining healthier longer. For many, that means wanting to continue working up to and past the former age of retirement.**

Mature workers (defined as 50+ years of age) have a lot to contribute to organizations and businesses of all types. These are people who have over 25 years of work experience and who have developed a wide range of skills, knowledge and talents. With a smaller population in the generations coming up to replace baby boomers, it is vital that businesses attract and retain mature workers in order to remain productive and viable.

There are some barriers that might prevent this more experienced population from filling roles in organizations. One issue is that as we age, we may require more flexibility in work hours, better benefits to deal with increased health costs and higher pay based upon years of experience. Some businesses may not be equipped to handle these requirements. Another barrier may be that executive teams do not feel that mature workers have the technological skills or current understanding of the world and new trends.

The problem seems to be two-fold – some organizations have an unconscious bias against older applicants for open positions and some mature workers legitimately do not have the skillset they need to be competitive in today's recruitment economy. Businesses need workers and mature workers need jobs. It seems straightforward that each would be the perfect solution to the other, but some work needs to be done to help these sides come together.

In Alberta specifically, many mature workers have been transitioned out of long-time roles and are now in a position to look for work again. With changes in the economy, the people who demand the highest salaries and are the closest to retirement often get packaged out but they may not be ready for a full retirement. What can we do to help these people get back into the workforce and how can we work with organizations to recruit mature workers wanting to still contribute?

### What can be done?

One group in Alberta is taking it upon themselves to come up with a solution

for both of these concerns. The Mature Action Worker Team (MWAT) Project is a group of community service providers and stakeholders whose service focus is meaningful employment of Calgaryans/Albertans that have come together to help identify the resources needed for workers over the age of 50 who have been moved out of mid-skill jobs and who want to get back into the workforce, probably in a new field. Backed by funding from the Alberta Government Ministry of Community and Social Services and Ministry of Labour Grant, this group is working to develop educational tools to support workers over the age of 50 who are currently unemployed. The Project is also working with organizations to address some of the ways in which they may encourage an age-friendly workplace where mature workers feel comfortable applying for jobs. It is a two-pronged approach to optimize the chances of success for everyone involved.

### What does the project include?

The Mature Worker Action Team started with evaluating exactly what needs existed within the group of mature workers who were unemployed in Alberta. The MWAT received grant funding through The City of Calgary FCSS (Family & Community Support Services) to research what gaps existed for mature workers being successful in the labour market and ascertain that certain skills or qualities needed to be learned or upgraded among this age group. The research identifies these problematic areas for mature workers as job seekers:

- **Emotional Intelligence (EQ)** – *addressing self aware of one's own emotions and reactions in a situation and understanding the emotions, thoughts and biases of another person.*
- **Technological expertise** – *understanding the newest technological advances and programs used in the workplace.*
- **Physicality** – *the ability (or inability) to perform physical tasks as well*
- **Recruitment trends and tools** – *how online recruitment works and how to optimize your search for work.*
- **Confidence** – *belief in oneself that they have the transferable skills to*

*switch from one type of role to another.*

- **Financial planning** – *saving money for unexpected interruptions of employment and retirement.*

Once the Action Team knew what the population required to re-enter the workforce, they began developing an education plan to meet these needs and build the necessary skills. Putting together a training course for mature workers was the most obvious solution to the problem. The Action Team will offer three, three-day Participant Training Sessions which will run as a pilot in the fall of 2019. The training will cover many topics to specifically address the gaps in knowledge that many mature workers display. Topics will include how to perform realistic job searches, how to adjust resumes to highlight transferable skills, how to address biases workers might hold about certain jobs or industries and improving soft skills that are so valuable in the workplace today: EQ, self awareness, self confidence and the ability to work effectively with all groups.

The training sessions will focus on experiential and interactive learning. Participants will learn theory and then use that theory in action. Hands on learning and case studies will help attendees to put their knowledge to work immediately and practice skills as they acquire them. The training is a combination of information, tactics and resources for both employers and mature job seekers. Mature job seekers will learn up-to-date job search strategies and interview skills as well as the realities of what employers expect from their workforce addressing biases and adaptability. There will be a follow up with the participants of these sessions within 90 days of completion for further coaching and feedback of the effectiveness and learnings of the material.

In addition to helping mature workers deepen and expand their skillset, the Action Team is also developing and will offer two educational sessions for employers. Because the concern around mature workers getting back to work is a two-sided issue, the team felt it necessary

to address problems on both sides. The employer sessions will offer information to help workplaces address any biases the organizational culture might hold against hiring from the 50+ population. The training will also offer insight into how recruiters might analyze resumes and interviews differently to offer equal opportunity to mature workers. Finally, there will also be tools explained that can be put into use to create a more diverse and age-friendly workplace. The intended outcome of this event is to give employers an enriched perspective about the skills and unique benefits that mature workers could bring to their organization.

Both training for workers and employers are slotted for fall 2019 and are running as pilot projects. If the sessions are successful, there is a hope to further offer this training in the future as well. To create more exposure of the pilot project, the Mature Worker Action Team has also planned a capstone event in November. To be held at Calgary's new Central Library, presenting speakers will offer additional information about diversity and the benefits of an age-friendly organization. Employers who have gone above and beyond to create spaces where mature workers not only feel comfortable but welcomed, will be recognized at the event and held up as examples of what the future should look like. More details about both pilot training programs and the capstone event will be available August 1, 2019.

## How can you get involved?

The Mature Worker Action Team Project is supported by various stakeholders and organizations. A variety of partnerships have been forged to make this work possible. Some of the organizations involved include:

- The Kerby Centre
- Chartered Professionals in Human Resources Alberta
- Calgary Catholic Immigration Society (CCIS)
- The Talent Pool
- MCG Careers
- The City of Calgary Age-Friendly Strategy Initiatives
- WCG
- Government of Alberta - Community and Social Services and Labour

This project has the support of many groups, but further resources are always welcomed and well utilized. If you are an individual or organization who would like to get involved with this important work, you can reach out to Nicole Bourgeois, Program Coordinator for partnership and sponsorship information. [NicoleB@kerbycentre.com](mailto:NicoleB@kerbycentre.com).

The population of Alberta and of Canada, as a whole is changing, and the economy has experienced numerous changes as well. One of these changes is the fact that workers are aging and we have fewer young people coming up behind to replace people who may be nearing a retirement age. As well, people do not want to fully retire by age 60 or 65. They still want to contribute because they are still healthy, energetic and connected to the world of business. This means that mature workers want to remain in the workforce longer and many of them want to - or are forced to - try a new direction in their career. While the desire is there, there are also obstacles to finding new work such as lack of certain skills or knowledge, or physical concerns. There is also a lack of understanding on the side of business about what mature workers can bring to the organization to benefit diversity and productivity. Many groups across Canada are making strides to address all of these issues to get mature workers back into the workforce.

## Congratulations to CPHR Alberta's newest FCPHRs

Fellow Chartered Professional in Human Resources

**Ang  le Mullins** FCPHR

**Lynette Grose** FCPHR

The Fellowship Award is a prestigious honorary award that recognizes Chartered Professionals in Human Resources who have made truly exemplary contributions to the profession. Recipients of the award are granted recognition as a Fellow Chartered Professional in Human Resources (FCPHR).

For more information on the CPHR Alberta Celebrating Excellence Awards visit [CPHRab.ca/awards-program](http://CPHRab.ca/awards-program)

**CPHR**  
Alberta

# CPHR Saskatchewan News

Putting together a premiere professional event each year is the pride of the CPHR Saskatchewan team, led by Charmaine Wintermute, Learning & Member Relations Manager, CPHR Saskatchewan.

"It's exciting each year to find just the right mix of topics and speakers for keynote presentations and breakout sessions," says Charmaine Wintermute, "As an HR professional with 20+ years of experience, I have the advantage of witnessing, first-hand, the evolution of HR in our province and understanding the professional development needs and expectations of our membership."

CPHR Saskatchewan's 13<sup>th</sup> Annual Conference will be held in Saskatoon on October 1–2, 2019 at The World Trade Center Saskatoon at Prairieland Park.

"Each year, the conference theme is CPHR Canada's brand tagline — People Leading Business. This theme continuously highlights the role of human resources in advancing organizational objectives and ultimately Canadian business. That's why we sign keynotes like Dr. John Izzo, a well-known, respected, credible expert on taking responsibility in your workplace, who will add value to the HR professional's knowledge base and practice."

Dr. Izzo will be joined by Beverley Busson, one of the first women to join the RCMP, the first woman to be appointed to the position of Commanding Officer of a province, the first woman to be appointed as Commissioner of the RCMP and the first police officer to ever be awarded the Order of British Columbia. Beverley Busson will share her personal experiences and observations on why she feels women in particular are natural born leaders.

The CPHR Saskatchewan Conference will also feature the latest in neuroscience with Dr. Brynn Winegard, a neuroscientist and expert on business brain science. Dr. Winegard believes

an understanding of brain science can help us be more effective, efficient, productive, informed, influential, persuasive, and successful. Her keynote on 'The Aging Brain in the Workplace' explores how the brain changes over the course of a life and career.

Closing the conference is Dr. Dave Williams, the record-breaking astronaut, aquanaut and leadership expert born in Saskatoon, Saskatchewan and, although his family moved at an early age, CPHR Saskatchewan is proud to welcome him home! Dr. Williams joined an exclusive club when he blasted into space aboard the Space Shuttle Columbia and again on Shuttle Endeavour where he walked out into the great beyond. Dr. Williams will speak to conference delegates as the President and CEO of Southlake Regional Health Centre and offer his insight on 'What CEOs Want From Their Boards and HR Departments'.

"Although the keynote speakers are a highlight at the conference," adds Charmaine, "we also provide our members with a realm of learning sessions focusing on foundational HR knowledge, best practices, and forward-thinking, thought-provoking HR concepts and issues."

This year's breakout sessions include an 'Ask the Expert' panel of experienced lawyers from MLT Aikins, Western Canada's Law Firm, where delegates have the open forum opportunity to ask burning legal questions relevant to their practice and organization.

"It's important for our members to hear about best practice from fellow members," Charmaine states. For that purpose, four member organizations (Farm Credit Canada, Nutrien,



Dr. Brynn Winegard



Dr. Dave Williams

Saskatchewan Government Insurance and the University of Saskatchewan) will host breakout sessions specifically on **leadership development, engaging men as champions for inclusion, creating a safety culture that wins gold, and practical considerations for HR when engaging in building reconciliation**. Each session will offer a real, first-hand account of great things happening in Saskatchewan organizations.

**Cyber security** breaches continue to haunt the headlines and conference delegates will learn about the critical interface of HR and cyber security. "I have heard more than one HR professional state 'we have someone in our organization who looks after cyber security.' We have to change our cyber security mindset in HR. HR plays a key role in helping to protect companies and employees."

Statistics confirming the impact of mental illness on Canadian organizations are readily available. "We started to wonder who looked after the mental health of the HR professional — who often is charged with managing the organization's mental health portfolio." Dr. Perry Sirota, Clinical and Forensic Psychologist, will discuss **why HR professionals are susceptible to mental health challenges** and delegates will have the opportunity to complete a confidential self-assessment to ensure their health and wellness is a priority.

Planning a two-day conference that adds value to delegates, advances the profession and improves the landscape of Canadian business is not a task that CPHR Saskatchewan takes lightly. The resulting lineup this year is exceptional, creating a learning and networking experience that is not to be missed.

## Congratulations to Saskatchewan's newest CPHRs who passed the National Knowledge Exam on June 1<sup>st</sup>.

Cara Banks  
Molly Fergusson  
Lisa Klassen  
Mark Knoll  
Kathleen Kristoff  
Mackenzie L'Ecuyer  
Brenna Lozinsky  
Stacey Lulik  
Adeyemi Ogunade

Sarah Poelzer  
Kevin Siebert  
Chimuka Simasiku  
Joy Sinclair  
Thomas Skulski  
Renee Smith  
Jovi Stevenson  
William Wu

This year, Cara Banks achieved the highest score in Saskatchewan!

For more information on the CPHR Designation please visit [www.cphrsk.ca](http://www.cphrsk.ca)

**CPHR**  
Saskatchewan



Dr. John Izzo



Beverley Busson

# Business + People

*As Stephen Covey Jr. says, 'business moves at the speed of trust.'*

Business is people. And this fall, a collection of international, national and local HR experts are coming together in Winnipeg to share their expertise on what it takes to align efforts, support people and achieve common goals. It is people, the tools and skills they have and the relationships among them that advance business objectives.

HR practitioners are increasingly stepping into their role as leaders in the business world, taking their rightful place as strategic decision-makers. On October 29 and 30, 2019, over 300 HR professionals will come together for CPHR Manitoba's HR Conference 2019: Business + People, a two-day conference that offers empowering keynote speakers, breakout sessions and a networking reception.

The featured international keynote speakers – Risha Grant, Pete Smith and Kathy Parry – will share their knowledge and expertise on big industry topics

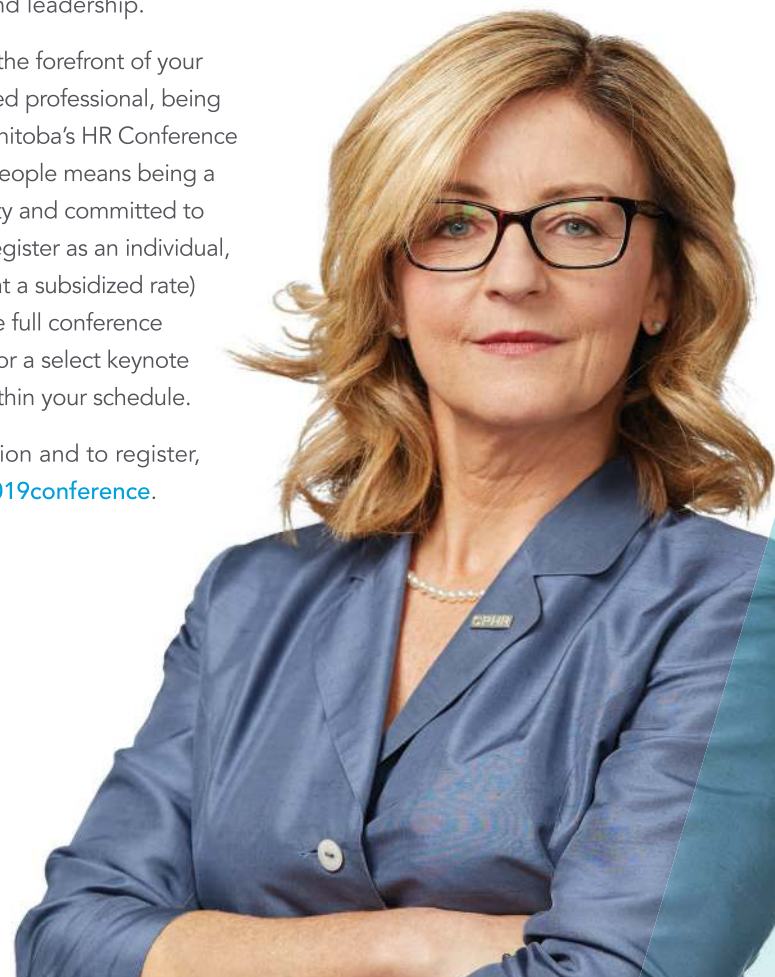
such as attracting and retaining top, diverse talent; the importance of uniting people in the workplace; and refuelling your routine to increase well-being and effectiveness. Fellow Manitoban Kevin Chief, Vice President of Business Council of Manitoba, will draw on his personal and professional experiences from growing up as an Indigenous youth in Winnipeg's North End to his career working in the community, education and business fields. And throughout the course of two days, choose from 15 breakout sessions that cover a wide range of topics, including truth and reconciliation, career resiliency, managing a human rights complaint and psychological health and safety.

CPHR Manitoba's HR Conference 2019: Business + People's offerings cater to professional development, career advancement and the Chartered Professional in Human Resources (CPHR) designation. HR professionals

are leaders in their field and employers, colleagues and clients look to them for strategic advice and leadership.

Whether you're at the forefront of your career or a seasoned professional, being a part of CPHR Manitoba's HR Conference 2019: Business + People means being a part of a community and committed to your profession. Register as an individual, group or student (at a subsidized rate) and take part in the full conference or attend one day or a select keynote speaker that fits within your schedule.

For more information and to register, visit [cphrmb.ca/2019conference](http://cphrmb.ca/2019conference).



## Leadership Becomes You. Become a CPHR.

*No matter the industry, Human Resources professionals are acknowledged for their expertise and excellence. Becoming a Chartered Professional in Human Resources (CPHR) means you're recognized on a national level within your field. It means having employers, colleagues and clients turn to you for strategic advice and guidance.*

### 1. Proven Expertise

By pursuing the CPHR designation, you will prove your ability to tackle all aspects of HR and demonstrate to employers, colleagues and clients that you are a true HR specialist.

### 2. Constant Learning

Education never ends, and as a CPHR member, you will be challenged to continually update your knowledge and skills in HR. You'll gain expertise and leading-edge knowledge to help you manage complex issues and become a strategic advisor.

### 3. Demonstrated Commitment

CPHRs must undergo rigorous studies, a comprehensive exam and ongoing growth. You are committed to the advancement of the profession. When you become a CPHR, you demonstrate your commitment to constantly update skills and develop.

### 4. Community

Through special events, conferences, publications and websites, you can connect with other HR professionals across Canada. This powerful network

proves invaluable as HR professionals look for solutions, ideas and the ability to connect with others in the field.

### 5. Ethical Behaviour

CPHRs commit themselves to high standards of ethical behaviour. They are held to the CPHR Manitoba Code of Ethics and Rules of Professional Conduct that covers a range of important professional issues including confidentiality, conflict of interest, professional growth and more.

### 6. Variety

In the HR profession, no two days are the same. CPHRs are always given new tasks and goals to achieve. You are able to apply your learned skills in a range of different areas.

### 7. Challenges

Human Resources is always evolving. There are always new strategies to consider, technologies to learn and

skills to improve. As a CPHR, you'll be informed of the newest trends and challenges before anyone else.

### 8. Impact on others

Human Resources is an incredibly rewarding profession. You have the opportunity to improve working environments for others and create lasting change. CPHR members are given the tools and skills needed to train others, uncover resolutions and be leaders in their field.

### 9. Be a Leader

CPHR members are leaders in their field. Employers, colleagues and clients will turn to you for guidance and leadership in all aspects of HR. Becoming a CPHR will help you achieve excellence and acknowledgement.

Achieve excellence.  
Become a CPHR today.


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# 1 step forward, 2 steps back

**S**ometimes, I can't quite believe it's 2019. I can't quite believe we're two decades into the 21<sup>st</sup> century and yet people still don't know how to behave — or just don't care — in the workplace.

In late July, the Canadian government promised \$900 million in compensation to settle multiple class-action lawsuits lodged on behalf of survivors of sexual harassment, gender discrimination and sexual assault in the military.

It's encouraging that a settlement was reached — though the government did not admit liability — and class members will be eligible for between \$5,000 and \$55,000, with higher compensation for people who were subjected to exceptional harm and denied disability benefits; they could receive up to \$155,000, according to the Canadian Press.

Back in 2015, the government launched Operation Honour to combat sexual assault and misconduct in its ranks. That included resources devoted to the issue, reporting recommendations, research, policies and directives. There were definitions and training materials available, along with various tools (such as videos) meant to combat the epidemic.

But that doesn't make up for the victims' years of pain, suffering and abuse, which likely continue in some forms even now. And changing the culture of that workplace will not be easy, according to Amy Graham, one of the plaintiffs.

"It's been entrenched, in-



**Sarah Dobson**  
EDITOR'S NOTES

grained in the military for so long — decades — that it's not going to be a quick fix."

Of course, this problem is not exclusive to the military. Three years ago, the RCMP settled a sexual harassment lawsuit from female members for \$100 million. And in July 2019, the same is being done for women who worked as volunteers or municipal and contract employees.

There's also the recent decision by the Supreme Court of Canada involving WestJet. The airline was keen to cancel a lawsuit accusing it of failing to provide a harassment-free workplace for women, but the top court refused in July, so that case will be going ahead.

Former flight attendant Mandalena Lewis, who filed the lawsuit, cited "toxic" relations and a "cowboy culture" at WestJet, which included employees being inappropriately touched on a regular basis or aggressively propositioned.

Why does this keep happen-

ing? Despite both sexes being contributors in the workplace for hundreds of years, these issues keep cropping up. That line between personal and professional just doesn't exist for some people, no matter what corporate says.

While there are laws, regulations and policies meant to deter and punish inappropriate behaviour, the bad news just keeps coming.

Despite social media quickly putting the spotlight on misbehavers, the harassment continues.

Even with the powerful wave of the #MeToo movement sweeping through workplaces, I don't know that many employees are breathing a sigh of relief thinking that the discomfort, awkwardness and tasteless conduct will come to a screeching halt.

And maybe that's partly because some of the behaviour is subtle. There are many employees who suffer through smaller acts of harassment, such as sly comments or silly jokes. And when the conduct is that slight, people may feel reluctant to step up, to say "no thank you" and report the issue.

We've been taught "No means no" when it comes to sexual advances and assault outside the workplace, but I'm not sure that's really applied in the workplace. Too many employees may try to shrug the comments off as no big deal, laugh uncomfortably and try to focus on work instead.

But if those improper comments are not challenged or admonished, if the culprit considers

them harmless and that sexual harassment training doesn't apply, then it just continues. And that means the overall culture will never truly change, despite best efforts by HR.

Mind you, the newer trend of bystander training around harassment is encouraging, so, hopefully, we'll see gains there — because it's not just employees who are facing the problem.

A 2019 survey by the Ontario government found that at least half of the province's university and college students say they have experienced sexual harassment.

Almost two-thirds (63 per cent) of the 116,000 university students who completed the survey said they had experienced some type of sexual harassment, while 49 per cent of 42,000 college students said the same.

The results are "heartbreaking and disturbing," says Minister of Training, Colleges and Universities Merrilee Fullerton.

That they are. While part of the reason for the high numbers could be greater awareness of the issue as a whole, harassment is clearly an issue that's not just for generations already ensconced in the workplace — younger people are also suffering, despite considerable media attention on the problem.

That would suggest the training and education has to start much sooner than the workplace — it has to start in the schools, so a culture of harassment isn't allowed to seep into the workplace down the road.

## THE WEIRD WORKPLACE

### GOOSE CHASE

EDMONTON — An employee at the Sandpiper Golf and Country Club in Edmonton could be in big trouble after an attempted goose-shooting turned deadly. The worker apparently killed two geese after they were hit by his golf cart when he tried to get them to leave the course, according to the Canadian Press. After golfer Brad Anderson posted images of the dead geese on Facebook, the club said steps would be taken to address the deaths. "In general, it is an offence to harass, kill or injure migratory birds under both provincial and federal legislation and can result in a fine, jail time or both for adults," says Lisa Glover, Department of Justice spokesperson, adding that officials were looking into the matter after multiple complaints followed the Facebook post. An updated message from Sandpiper said: "We do not condone this behaviour in any way. We assure you that we are taking this incident very seriously."

### IMAGINARY INTERN

MOUNT PLEASANT, Iowa — An environmental specialist working for Henry County in Iowa was fired after it was discovered an intern she "hired" did not actually exist. Jodi Sutter was given the boot in February 2018

### BIKINI BAN

SEATTLE — Baristas at an Everett, Wash., coffee stand may soon have to turn in their skimpy outfits after a court upheld a city dress code. The "bikini baristas" work for a chain of stands called "Hillbilly Hotties," but the 9th U.S. Circuit Court of Appeals ruled employees wearing sexy outfits, such as pasties and G-strings, do not enjoy free-speech protection under the U.S. First Amendment, according to the Associated Press. The owner of the racy java shops, Jovanna Edge, says she plans to appeal the ruling but, for now, the city will impose a code that says workers must wear tank tops and shorts — at minimum — if they want to work at the businesses.

after a state-wide audit revealed almost US\$219,000 in phony payments were made to the imaginary intern. Sutter was not able to produce expense documentation and she eventually fessed up to investigators about the scheme. Undaunted, the 43-year-old later filed suit against the employer for unpaid salary and wrongful dismissal, said the *Des Moines Register*. There are "substantial gaps in the (audit) report, which call into question its findings," said Sutter through her lawyer.

### UNPACIFIED POOCH

BOSTON — A Boston veterinarian made quite the discovery recently when the owners of Mortimer — a three-year-old dog with a voracious appetite — took their ailing pet into the Angell Animal Medical Center. After X-rays of the pooch were taken,

Erika De Papp removed 19 baby pacifiers from the pooch's stomach via endoscopy, according to *People* magazine. "It's likely that Mortimer started nabbing these pacifiers in April, perhaps one at a time, and that started a cycle of nausea and vomiting, which are symptoms that can be caused by so many other health issues," says Doug Brum, Mortimer's primary veterinarian. "If not for the urgency with which his family pursued veterinary care, things would have gotten much worse for him." It's not the only case of overzealous canine appetites, according to the Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), which has "removed all manner of objects from the bellies of pets — from guitar strings and wristwatches, to safety pins, diamond rings, perfume bottles and more."

### WINGED RAT?

LOS ANGELES — A patron at a Buffalo Wild Wings restaurant was stunned recently by something that slammed into her menu "like a Mack truck." A live rat had dropped from the ceiling and ended up on top of Alisha Norman's table at a Los Angeles outlet. A restaurant manager quickly came to the rescue. "He took two plates and then they just picked it up and dumped it in a bag. It was terrible, it was disgusting," Norman told NBC 4 News. The company waived Norman's bill and laid the blame on nearby construction: "The isolated incident at the Westchester-area Buffalo Wild Wings in Los Angeles yesterday was unfortunate. The centre where the restaurant is located is undergoing significant construction and we are confident it was directly related."



Credit: Beee.T (Shutterstock)

# Handling divisions in the workplace

*Trump is stirring up a lot of feelings — and that could have implications for employers*

I have worked with both the Trump and Obama administrations during my career as a diversity and inclusion practitioner, so I have inside experience on how both administrations work.



**Omekongo Dibinga**

I have been critical of both administrations for different reasons. From corporations to schools, I have also worked with organizations dealing with the challenges the election of the first African-American president brought them — which is a discussion for another day.

Today, I'd like to provide some steps employers can take during the presidency of Donald Trump to deal with challenges related to diversity.

Love or hate him, we all know Trump has been called the most divisive president in recent United States history. Whether you agree with that statement or not, one thing we cannot disagree on is that, since 2016, tensions have risen tremendously in the country in the form of an increase in hate crimes (according to the FBI), an apparent increase in tensions between non-white communities and law enforcement, and increased tensions in the workplace, according to a 2017 survey by the American Psychological Association.

More employees are experiencing tension because of what they are experiencing outside of work as well as on the job.

So, here are three steps employers can take to start to

create a more productive work environment in a country that is only going to become more tense as we approach the 2020 election.

## Create free spaces

There has been much written about the importance of organizations creating safe spaces — “intended to be free of bias, conflict, criticism, or potentially threatening actions, ideas, or conversations,” according to Merriam-Webster — but there also need to be free spaces where your employees can express themselves without being judged or developing a fear of reprisals.

There should be a department — or at the very least a representative of your company — not affiliated with HR, where employees can express themselves and their concerns about how the climate of the country (or your company) may be affecting their work performance.

You can have employees who feel they are being targeted be-

cause of their race, religion, gender or any other identifier for which they feel singled out.

From the rich, white male in a company to the Muslim, middle-class female, anyone can feel marginalized at any time. They need spaces to speak their mind.

## Focus on diversity

Create a diversity statement and training now before the crisis hits — and a crisis will hit. I have encountered so many employees who have told me they feel tolerated and not celebrated in their organizations because their workplaces do not have a stated commitment to diversity.

The idea of the diversity statement can indeed be controversial, but I believe it is better to have a statement than not have one.

A diversity statement is a promise to everyone who walks

through your doors that your company is committed to hiring the best talent, regardless of their background.

## Silence is compliance

As I am writing this, the hashtag #silenceiscompliance is trending in regards to frustrations with politicians not speaking up on some of the issues facing the U.S. today.

Whether it is the situation with the flag and Colin Kaepernick or environmental issues such as the effects of plastic straws, we live in a society where consumers want their companies to take a stand, one way or the other.

Even Skittles had to issue a statement after the killing of Trayvon Martin (who was carrying the candy) by George Zimmerman in 2012. In this day and age, you do not want your company to be caught off guard by an issue that is quickly going viral.

In the last year, Starbucks, Gu-

cc, Macy's, Home Depot, H&M, Sephora, Burberry and so many other companies have found themselves the subject of backlash over issues such as racism, sexism and other forms of discrimination. You want to make sure your company is proactive in the face of controversy, because compa-

nies that are reactive tend to suffer the most criticism from the public (and stockholders, by the way).

We live in a society that is on the brink of either something beautiful or disastrous. Your company should not wait to respond to issues regarding diversity and inclusion.

I have not yet read a study saying that employers that are more diverse and celebrate their diversity are less profitable. Companies can increase their revenue by as much as 19 per cent when they embrace diversity, according to a 2018 study by the Boston Consulting Group.

As the United States becomes more diverse and the world becomes smaller, you owe it to employees and consumers to continually be ahead of the curve. As Martin Luther King stated: “The time is always right to do what is right.”

If your company is strong in one or two of these areas, strengthen yourself in the third. If your company is shaky in all three, there is no time like the present to fine-tune your programs by working with experts in this area.

If your company is proficient in all three, do not get comfortable, for as U.S. author and motivational speaker Zig Ziglar said, you can always better your best.

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## I have not yet read a study saying that employers that are more diverse and celebrate that diversity are less profitable.

# Being specific on just cause for dismissal

*If an employment agreement has examples of misconduct, can the employer automatically dismiss a misbehaving worker without notice?*

**Question:** If an employment agreement has specific examples of misconduct that constitute just cause for dismissal, can the employer automatically dismiss employees without notice if they are guilty of that misconduct?



**Colin Gibson**  
TOUGHEST HR QUESTION

**Answer:** Just cause for summary dismissal is normally difficult to prove. In the 2001 case *McKinley v. BC Tel*, the Supreme Court of Canada described just cause as serious misconduct that gives rise to a breakdown in the employment relationship.

Just cause will exist where an employee's behaviour violated an essential condition of the employment contract, breached the faith inherent in the work relationship or was fundamentally or directly inconsistent with the employee's obligations to the employer.

In some cases, an employer may want to include language in an employment contract specifying certain types of misconduct that will be just cause for dismissal without notice or severance compensation. Clauses of this nature can be effective in tailoring an employment agreement to the particular requirements of the employer's business.

Generally speaking, a court will enforce a contractual definition of just cause, provided the definition is clear and does not violate statutory termination restrictions, such as those found in human rights, labour relations or workers' compensation legislation.

Care must be taken in drafting provisions of this nature, however, because — as is the case with clauses that seek to limit an employee's notice or severance rights on a termination without cause — they will often be subjected to careful judicial scrutiny.

It is important to ensure that if an employment agreement lists certain infractions that will

be just cause for dismissal, the list concludes with a catch-all phrase such as “any other act or omission that would constitute just cause for dismissal at common law.” Otherwise, categories of serious misconduct that do not appear on the list (even theft, for example) will not be grounds for dismissal without notice or severance compensation.

If a contractual definition of just cause includes conduct by the employee that can't be measured objectively, and it depends on the exercise of the employer's

cretion under a provision of this nature honestly and in good faith, the court should not overturn the employer's decision on grounds of reasonableness.

If an employment agreement defines just cause more broadly than the applicable employment standards legislation, an employer may be required to provide the employee with statutory notice or severance compensation, even though summary dismissal is permissible under the terms of the employment contract.

In the 2018 case *Khashaba v.*

found that this provision violated the province's Employment Standards Act, 2000, which requires a higher standard of “wilful misconduct” for summary termination.

However, while the court found that the definition of just cause in the contract was void, it rejected the employee's argument that, under the principles expressed in the 1992 case *Machtinger v. HOJ Industries Ltd.*, this also invalidated the other termination provisions in the agreement.

In ruling that the employee was limited to the severance outlined in his contract, the court cited the comments of the B.C. Court of Appeal in the 2014 case *Miller v. Convergys CMG Canada Limited Partnership* that “the construction of an employment contract remains an exercise in contractual interpretation, and the intentions of the parties will generally prevail, even if this detracts from employment law goals that are otherwise presumed to apply.”

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## Generally speaking, a court will enforce a contractual definition of just cause, provided the definition is clear.

subjective judgment, a court will expect the employer to act fairly and in good faith in its application of the clause: See *Truckers Garage Inc. v. Krell* from 2003.

In the 2001 case *Meyer v. Partec Lavalin Inc.*, the Alberta Court of Appeal ruled that if the employer has exercised its dis-

*Procom Consultants Group Ltd.*, the termination language in the employment agreement defined cause as “any grounds at common law for which an employer is entitled to dismiss an employee summarily without notice or compensation in lieu of notice.” The Ontario Supreme Court

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