

tion agreement the process that will be used by the arbitrator in hearing their arbitration. The typical process is,

1. Each party submits a pre-hearing brief outlining their position and providing relevant supporting documents and reports.
2. At the hearing, each party calls their witnesses, which often include experts like economists, to explain their proposals and cross-examine the other party's witness.
3. Each party then responds to the other party's case.
4. Each party presents submissions in favour of their position.
5. Following the conclusion of the hearing process, the arbitrator issues a binding award to settle the dispute.

F. Criteria Arbitrator Must Consider

Since the passage of Bill 26, every statutory public sector arbitration scheme in Ontario requires the arbitrator to consider certain factors before making their decision. For example, the Hospital Labour Disputes Arbitration Act mandates that the board of arbitration must take into consideration the following criteria:

1. The employer's ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
3. The economic situation in Ontario and in the municipality where the hospital is located.
4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer's ability to attract and retain qualified employees.

G. Other Jurisdictions

Most other jurisdictions in Canada have established an arbitration process for bargaining disputes in physician services negotiations. Specifically, seven provinces and one territory have established an arbitration process (see table, p. 22). ■

Occupational Health and Safety Act:

OMA online toolkit summarizes physician obligations under amended legislation

On March 8, 2016, the Ontario legislature passed Bill 132, the Sexual Violence and Harassment Action Plan Act, which amended a number of statutes by adding provisions regarding sexual harassment and sexual violence. Bill 132 included a series of changes to various provisions of the Occupational Health and Safety Act (OHSA), which took effect on September 8, 2016.

Physicians operate as employers in a variety of settings and should be aware of their obligations under the amended legislation. As employers, physicians have responsibilities with respect to health and safety whether they employ staff in their private practice office, or as a Chief Executive Officer or owner/partner of a family health team, clinic, or other similar organization.

Physicians who are employees, and those who are self-employed (i.e., without employees), should also familiarize themselves with this legislation as they too have responsibilities under the Act.

The OMA has prepared a web-based toolkit to assist members in understanding their professional obligations under the OHSA and its regulations, and to help members make their practice compliant with the legislation.

The toolkit addresses amendments resulting from Bill 132, including information on workplace violence assessment, domestic violence, as well as practical tools and templates. Online resources available to members include:

- Description of changes from Bill 132
- Workplace Violence Assessment Tools
- Workplace Violence Policy Template
- Workplace Violence Program Examples
- Workplace Harassment Policy Template
- Workplace Harassment Program Template
- Workplace Harassment Complaint Form
- Other: Training, Duty to Provide Information, Recognizing Domestic Violence, and Safety Plans
- Full toolkit document with all of the above
- Former amendments to the Occupational Health and Safety Act (Bill 168, 2010)

To access the OMA OHSA toolkit, please visit www.oma.org/OHSA.

Please note: This OMA web resource has been prepared to assist OMA members in understanding some of their obligations under the Occupational Health and Safety Act and the regulations. It is not intended to replace the OHSA or the regulations, and reference should always be made to the official version of the legislation. It is the responsibility of OMA members to ensure compliance with the legislation. The web resource does not constitute legal advice. If you require assistance with respect to the interpretation of the legislation and its potential application in specific circumstances, please contact your legal counsel.