



CANADIAN FEDERATION  
OF NURSES UNIONS  
LA FÉDÉRATION CANADIENNE  
DES SYNDICATS D'INFIRMIÈRES  
ET INFIRMIERS

## POSITION STATEMENT

### Canada's Nurses and Presumptive Legislation for COVID-19

#### BACKGROUND

Presumptive legislation accepts disease or disorder claims from a worker without the worker having to prove that the disease or disorder – be it physical or psychological – necessarily resulted from the job. The worker's disease or disorder becomes a rebuttable presumption, meaning that unless proven otherwise by the employer, it is presumed that the worker suffered the disease or disorder as a result of their work.

There are many different types of presumptive legislation, applying to different occupations and different diseases and disorders. For instance, most provinces and territories in Canada have presumptive legislation for certain workers who suffer from posttraumatic stress disorder (PTSD). Another common example is presumptive legislation for firefighters who suffer from specific work-related illnesses, such as various types of cancer.

The advantages to the relevant worker in each case is that presumptive legislation allows them faster access to workers' compensation benefits and preventive measures in their workplace. Benefits include compensation and rehabilitation to enable a return to work. In the absence of presumptive legislation, to receive access to benefits, the onus is typically on the worker to demonstrate how their disease or disorder stemmed from their work. To provide proof that their disease or disorder was a result of an event or exposure while on the job, the worker is forced into a usually lengthy process involving adjudication, which can delay or outright deny the worker access to benefits.

Nurses experience much higher rates of mental disorder symptoms, including PTSD, than the general population, and in relation to most occupations.<sup>1</sup> For many years, nurses' unions have been pushing for presumptive legislation around posttraumatic stress disorder (PTSD) – or more broadly around posttraumatic stress injuries – either to be adopted by government, or to be amended to include nurses if legislation is already in place in a certain jurisdiction.

Each province and territory in Canada have adopted some form of presumptive legislation around this issue, except Quebec, the Northwest Territories and Nunavut. However, there are key differences between the laws, and some do not cover nurses to this day.

Saskatchewan, Manitoba, Newfoundland & Labrador and Prince Edward Island apply the presumption to all workers without limitation. In British Columbia and Ontario, the presumption only covers certain

---

<sup>1</sup> [https://nursesunions.ca/wp-content/uploads/2020/06/OSI-REPORT\\_final.pdf](https://nursesunions.ca/wp-content/uploads/2020/06/OSI-REPORT_final.pdf)

occupations, and in large part thanks to the advocacy work of nurses' unions, the legislation was recently amended to include nurses, among others. In Nova Scotia, legislation was passed in 2018 for frontline and emergency response workers, which explicitly mentions nurses. The presumptive legislation in Alberta, New Brunswick and Yukon does not include nurses.

These pieces of legislation have encompassed the preoccupation that nurses' unions have had with presumptive legislation in Canada up until COVID-19. Just as it has been argued that nurses are at a higher risk of developing PTSD and other mental disorders through the nature of their work, a similar susceptibility to developing illness is now being argued in the case of COVID-19.

As the World Health Organization notes, health care workers "face higher risks of potential COVID-19 infection in their efforts to protect the greater community."<sup>2</sup> Based on an analysis of data from the U.S. and the U.K., frontline health care workers had a nearly 12 times higher risk of testing positive for COVID-19 than individuals from the general population. The risk was even greater for those workers who lacked access to personal protective equipment (PPE).<sup>3</sup>

Expectedly, health care workers across Canada have been infected with the virus at worrying levels. Roughly one in five individuals infected with COVID-19 in Canada is a health care worker.<sup>4</sup> Regulated nurses represent the largest segment of workers within the Canadian health care system.

At the same time, there is only one jurisdiction that appears interested in bringing in presumptive legislation for essential workers who contract COVID-19 (or any infection caused by a communicable viral pathogen): British Columbia. However, its tentative plans would take six months to come into effect, which would be far too long for frontline workers to wait. Workers' compensation boards across the country are requiring workers who contract COVID-19 to prove that it was a result of their work.<sup>5</sup>

## CFNU POSITION

The CFNU believes that:

- Frontline health care workers have a significantly higher risk of contracting COVID-19 than the general population. This is a direct result of their work.
- Every province and territory should adopt presumptive legislation for COVID-19, which would cover all health care workers who contract the virus. Given the severity of the crisis, there should be no further delay.

---

<sup>2</sup> <https://iris.wpro.who.int/bitstream/handle/10665.1/14482/COVID-19-022020.pdf>

<sup>3</sup> <https://www.massgeneral.org/news/coronavirus/study-reveals-risk-of-covid-19-infection-among-health-care-workers>

<sup>4</sup> <https://www150.statcan.gc.ca/n1/daily-quotidien/200611/dq200611e-eng.htm>

<sup>5</sup> <https://awcbc.org/en/what-covid-19-claims-adjudication-information-have-awcbc-members-published/>