

Do we need a menstrual leave?

Asian countries already onboard

BY LIZ FOSTER

SICK LEAVE is available for employees suffering from any number of ailments, but is there a need for a designated leave around menstruation?

The concept garnered attention recently with news the province of Anhui in China had introduced a regulation in March that allows female employees to take up to two days per month of menstrual leave. The regulation also bans employers from discriminating against employees based on gender.

However, the idea is not entirely new. Leave for female employees during menstruation has been enshrined into local law in several countries: Japan enacted menstrual leave just after the Second World War in its Labor Standards Law in 1947, at a time when women were entering the workforce in record numbers. Taiwan introduced a similar leave in 2013 that guarantees female workers three days of leave per year, while South Korea has provided paid menstrual leave since 2001, according to media reports.

Proceed with caution

If an employer wishes to add menstrual leave to its own workplace for employees, it is more than welcome to do so, said Janet Deline, media spokesperson for the Ontario Ministry of Labour.

"Employers have a right to take care of employees as they see fit as long as they're abiding by the ESA (Employment Standards Act)," said Deline.

"There are some employers that may wish to do more for their employees and that would be completely up to the individual employer."

Employers party to a collective agreement would have to discuss the implementation of such a leave with the union representing employees before introducing it into the workplace, she said.

As for concerns about implementing a leave that is applicable to only a portion of the workforce, Deline said she is not aware of any restrictions within the ESA regarding gender.

And the Employment Standards Act directly provides for pregnancy leave, which is applicable only to female employees, she said.

Use discretion

But introducing a leave that is only accessible to a portion of the workforce could alienate employees who will not benefit from the change, said Lisa Kay, president and lead consultant at Toronto-based Peak Performance Human Resources.

"How will that make other employees feel, especially male counterparts who have other ailments they may be suffering from?" said Kay.

"That needs to be handled really well because it really does impact such a small demographic of people. Not all women suffer from severe pain or severe symptoms related to menstruation. It's not only women, it's only impacting a percentage of women.

"I can't imagine that not becoming an issue."

Introducing such a policy would require significant sensitivity, said Kay.

"Anything that an employer can offer to employees to show that they

care, and to support them through a difficult period — no pun intended — is great," she said.

"But from an HR perspective, this is a challenge. It's a bit of an awkward one. How many people will feel comfortable speaking up and letting their employer know that this is the issue in order to access that type of leave?"

Beyond a potentially uncomfortable conversation with a manager, fear could prevent employees from taking advantage of menstrual leave, she said.

"Female employees might face reprisal in some way, be perceived as weak or incapable or incompetent. I think that is a fear for employees and I think that is probably a fair fear. There are a lot of managers who are understanding but others will be less so," said Kay.

"Those arguments continue to be an issue surrounding women in the workplace. There are managers that are sensitive to that and colleagues that are very sensitive to that and others who are very resentful."

Ultimately, employers need to be responsive to the needs of all workers when considering menstrual leave.

"The communication around it would have to be sensitive," said Kay. "Look at it on a case-by-case basis, based on medical evidence and based on accommodation. If somebody requires accommodation — for whatever reason — make sure your employees know you have an open-door policy and are comfortable to speak with their manager if they need accommodation for medical reasons."

Physical issues

Primary dysmenorrhea — the cramping and pain that occurs during menstruation — is the most common symptom suffered by women during their periods.

Severe cramping, heavy bleeding, nausea and migraines are also associated with menstruation, said Erika Feuerstein, a physician with the Toronto-based Women's College Hospital.

"Often the symptoms during the first day of the period are severe enough (to warrant time away from work)," she said.

"It's not like women would take an entire week for their period. For most people, it would be that first day or two where the cramping, nausea or migraines are so severe they couldn't possibly function at work."

The pain associated with menstruation is comparable to the suffering of an employee with any other chronic disease, said Feuerstein.

"It's like any pain," she said. "If you have any pain, it's very hard to function. And for some, the menstrual pain is so severe, they can't even stand up. So it would be very hard to concentrate on any task that they had to do, and if they did do it, would it really be done to the best of their ability?"

While the majority of women suffering from symptoms related to menstruation can treat them with pain medication or tools such as heating or cooling pads, period pain should be viewed by employers as a legitimate excuse from work for female employees, said Feuerstein.

"There are people that their symptoms are so severe they couldn't go to work."