

**SUBMISSION TO  
THE MINISTRY OF LABOUR AND  
CHIEF PREVENTION OFFICER**

***"An Integrated Occupational Health and Safety  
Strategy for Ontario"***



**Provincial Building and Construction  
Trades Council of Ontario**

**May 31, 2013**

## **INTRODUCTION**

The Provincial Building and Construction Trades Council of Ontario represents 13 building and construction trades unions. These Unions and their respective Local Unions represent 150,000 men and women who work in every discipline of Ontario's construction industry.

Our members routinely work in environments that are inherently dangerous. Consequently, occupational health and safety is our highest priority. We fully support the goal of both the Ministry of Labour and the Chief Prevention Officer to develop an Integrated Occupational Health and Safety Strategy for Ontario.

We remain cognizant of the unnecessary and preventable deaths, injuries, and occupational exposures that workers face on a daily basis. Our recommendations here are intended to improve the health and safety of workers in the construction sector, so that Ontario's workplaces are the safest in the world.

We appreciate the opportunity to present our views and look forward to ongoing dialogue with the CPO and the Prevention Council.

### **➤ THE 'NEW ECONOMY'**

The so-called "new economy" has failed to deliver its promise of clean work and huge leaps in productivity. What's really happened is an intensification of economic pressures on both traditional and marginal workers.

The effects on employment include:

- ✓ increasing income disparities;
- ✓ fewer jobs that lead to viable career tracks;
- ✓ less secure employment;
- ✓ longer working hours;
- ✓ higher risk of uncompensated unemployment.

Workers who are either newly entering the workforce or who do not have the right training or skills to secure steady employment are at high risk of finding themselves in a lower-income situation which is likely to keep them in a state of economic and psychological despair, diminishing their prospect for entering the middle class.

Their opportunities are increasingly limited, whether by seeking better-paying jobs with other employers or moving up the now-shortened ladder at one employer. They face a declining choice of employment opportunities that tend to be concentrated in residual dangerous work in manufacturing or service sub-sectors that are often small or economically marginal.

These forces are pushing workers into accepting jobs in the diminishing, but still substantial, world of dangerous and precarious employment. Workers who are forced into these dangerous jobs will once again most likely be the poorly prepared, the newly-entering, the recent immigrants, and those who are illiterate. This class of worker has been described as “vulnerable.”

However, this does not mean that “vulnerable” workers are *only* those who find themselves in the above-noted situations. Even represented workers, who enjoy steadier and presumably more secure terms of work are often placed in vulnerable situations when they express legitimate safety concerns on the job. The threshold between vulnerable and non-vulnerable workers is extremely thin, and is often determined at the whim of employers, in the absence of the type of workplace safety regime that we are striving to achieve in the province of Ontario.

Therefore, “vulnerable workers” may include:

- ✓ young workers;
- ✓ recent immigrants;
- ✓ Aboriginal peoples;
- ✓ older workers;
- ✓ those new to their jobs or working for new businesses;
- ✓ temporary foreign and seasonal workers;
- ✓ workers holding multiple, part-time or low-paying jobs;
- ✓ workers who raise safety concerns on the job, and are reprimanded by employers (sometimes to the point of termination)
- ✓ workers involved in temporary employment<sup>1</sup>.

Factors contributing to worker vulnerability may include:

- ✓ an employer who is not committed to safety;
- ✓ an employer who uses intimidation to exert control over the workforce;
- ✓ individuals not knowing their rights under the *Occupational Health and Safety Act*;
- ✓ a lack of job or hazard-specific experience or training;
- ✓ worker fear of reprisals, including job loss, for exercising their rights or raising occupational health and safety concerns;
- ✓ fear of deportation<sup>2</sup>.

The new economy is clearly not only affecting low skilled workers, but is also impacting traditional, more stable workers. The new economy has transformed all workers into the vulnerable class. This includes highly skilled unionized workers and all white collar workers. Any future Occupational Health and Safety Strategy needs to accept that all workers are vulnerable and that they have no real empowerment.

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<sup>1</sup> Page 10 Discussion Paper “An Integrated Occupational Health and Safety Strategy For Ontario”

<sup>2</sup> Page 9 Discussion Paper “An Integrated Occupational Health and Safety Strategy For Ontario”

**A) EMPOWERMENT OF WORKERS NEEDS BE THE CORNER  
STONE OF ONTRAIO'S INTEGRATED OCCUPATIONAL HEALTH  
AND SAFETY STRATEGY**

Any Occupational Health and Safety Strategy needs to have as its key underpinning, the concept of worker empowerment. The current occupational health and safety system in Ontario has done little to create a supportive culture for workers to empower change in the workplace.

**Switch to Improving Work Environment**

Current OHS refers only to "occupational health & safety" whereas the new integrated prevention strategy should introduce the concept of "the work environment." A Move to "work environment" would be far reaching in that it would include problems of stress, monotony, and organization of work as part of a prevention strategy.

For example, the Swedish occupational health and safety prevention system has government inspectors to enforce written regulations similar to Ontario. However, the Swedish emphasis has been on massive educational programs and union involvement rather than ticketing and citations.

Unlike Ontario, the Swedish prevention system was designed to give workers more say in how they perform their jobs. Work has been arranged to give workers more influence in their particular situations and the challenges they face in the workplace.

Swedish law also requires the development of trade union safety representatives- something which most Ontario employers are hesitant to do. The end result in Sweden has been the creation of a virtual army of union safety representatives. It would be interesting to review the Ham Commission Report, which created our present Occupational Health and Safety system, to see whether the concept of 'work environment' and increased union inspectors were recommended.

➤ **Internal Responsibility System (IRS)**

It is acknowledged that the Ontario system is predicated on "participation" and that workers are an integral part of the internal responsibility system. Unfortunately, in most workplaces, workers have little control and no ability to make change or even report health and safety concerns without fear of employer reprisals.

A worker's right to participate is no more than a sound bite for politicians and talking points for industry or corporate executives. We have strong concerns that various worker participation schemes or worker involvement strategies may often be more

ceremonial than substantive, having little meaningful influence on actual worker empowerment.

Advances in injury and illness prevention will not happen by simply achieving nominal compliance with this or that procedure. Workplaces need to build a strong occupational health and safety culture.<sup>3</sup> Developing a health and safety culture should not only be limited to individual workplaces, it should be the cornerstone of Ontario's Health & Safety strategy. The strategy needs to understand and promote the concept of worker empowerment and participation.

Employee participation is fundamental and a vital part of any Health and Safety Regulatory framework that wants to achieve success. There is overwhelming evidence from multiple studies that worker participation, if allowed to occur unimpeded, drastically reduces the incidence of occupational injuries and illness.

Workers have the most direct interest in OHS of any party; their lives and limbs are at risk when things go wrong. Moreover, the hazards at work need to be identified and evaluated, and workers' experience and knowledge is crucially important to successfully identifying and evaluating those hazards. Worker participation also has a number of other benefits.

Unfortunately, in Ontario as in other parts of the world, Health and Safety has been "top down" and workers have little control. In the construction industry, owing especially to the prevalence of small worksites, the joint committee system is often impractical.

Consequently, there is much greater reliance on health and safety representatives. Unlike the industrial sector, the construction industry does not have a strong tradition of regulating lay-offs by a seniority rule. An employer who wishes to cut corners on safety may find it expedient to lay-off a health and safety representative.

Construction Health and Safety representatives are reluctant to report and exercise their duties due to fear of reprisals and being blacklisted. In construction, the right to "participate" or "refuse" is commonly referred to as the right to unemployment or 'early' retirement. Consequently, construction workers are reluctant to take Health and Safety representative positions or refuse unsafe work due to fear of employer reprisals.

### **Recommendations: A Worker Empowerment Strategy**

To ensure that workers participate effectively in the process of improving workplace health and safety, we recommend the following:

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<sup>3</sup> Page 9 Discussion Paper "An Integrated Occupational Health and Safety Strategy For Ontario"

## ***An Integrated Occupational Health and Safety Strategy for Ontario***

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- 1. The integrated prevention strategy should introduce the concept of "the work environment" which is more far reaching and it would include problems of stress, monotony, and organization of work as part of a prevention strategy.*
- 2. Promote and enforce legal requirements relating to employee-participation systems.*
- 3. The MOL and CPO need to ensure that workers and worker health and safety representatives are protected when exercising their rights in the workplace. The strategy needs to clearly indicate that the government is committed to ensuring that workers who exercise their rights in the workplace won't suffer reprisals. This needs to be communicated to all workplaces and part of a prolonged and sustained campaign which includes media, print and social networks, etc, to get that message to every worker and employer in the province. Employers who coerce and threaten workers that report Health and Safety violations will be prosecuted to the fullest extent of the law, with no exceptions.*
- 4. Raising awareness about the benefits of employee participation, and also about employers' legal obligations to involve workers in workplace health and safety.*
- 5. Providing practical guidance for workplaces on employee-participation systems and practices to support effective regulation.*
- 6. Increasing the involvement of workers in health and safety matters and recognising the role that health and safety representatives play in the workplace, and providing them with the support, resources, and practical tools they need.*
- 7. Developing an incentive system that encourages workers to raise legitimate health and safety concerns in the workplace, without fear of reprisal.*
- 8. Building the capability of health and safety representatives through ongoing training.*
- 9. Ensuring that Ministry of Labour Inspectors have experience in the field of work they are inspecting, so that they have the right conceptual vocabulary and workplace knowledge to effectively identify non-compliance and recommend appropriate health and safety solutions.*

### **Recommendations: Raise Awareness of OHS in the Community**

The MOL and CPO need to raise awareness and understanding of workplace health and safety in the wider community.

- 1. Raise the profile of workplace health and safety as an issue of public importance, by drawing attention to the impact of work-related disease and injury on individuals, families and businesses.*
- 2. Increase awareness and understanding of specific workplace health and safety issues in the wider community, through public awareness and education programmes.*
- 3. Promote the development of personal skills in workplace health and safety within the wider community through school-based education in health and safety.*

4. *Make explicit links between workplace health and safety and community-based injury prevention and safety initiatives.*

### **Recommendations: Target Vulnerable Workers and their Workplaces**

1. *There needs to be better "Intelligence" gathering. The CPO needs to establish ongoing relationships with organizations who deal with immigrant and vulnerable workers. These organizations can include:*

- ✓ *Immigrant settlement groups;*
- ✓ *Legal Aid Offices especially those that deal with specific ethnic groups or speciality clinics<sup>4</sup>;*
- ✓ *Community Groups;*
- ✓ *Office of the Worker Advisor;*
- ✓ *Injured Worker Groups*
- ✓ *Labour Unions*

*Better relationships with groups who service "vulnerable workers" will help in identifying and targeting employers who they know are exploiting workers. Targeting employers would include those who use temp agencies or who hire workers from a specific ethnic group.*

2. *MOL should use "safety blitzes" to employers who employ mostly immigrants. For example the MOL can coordinate targeted blitzes in the western part of the GTA, Brampton, Mississauga where there is a large Indo Canadian and South Asian population. The speciality legal clinics and immigrant/community groups can provide the required intelligence.*
3. *MOL should target temp agencies and employers who utilize temp agency workers in a prolonged campaign.*
4. *Better use of other inspectors who visit workplaces. This includes fire inspectors, health inspectors or municipal by-law officers who routinely come into contact with workplaces and workers. At minimum, city inspectors can notify the MOL of workplaces that appear to be in violation of Health and Safety regulations. For example, a large number of the restaurants in certain areas of the GTA make it a practice to hire workers under the table or on a cash basis. These restaurants are continuously being visited by health inspectors or other by-law officers. Why isn't there a protocol whereby these inspectors can help identify whether these workers are operating in the Underground economy or are at risk of having their safety jeopardized?*

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<sup>4</sup> 1) Centre for Spanish-Speaking People, 2) Metro Toronto Chinese & Southeast Asian Legal Clinic  
3) South Asian Legal Clinic of Ontario, 4) Aboriginal Legal Services of Toronto  
5) Industrial Accident Victims Group of Ontario, 6) Injured Workers' Consultants  
7) Toronto Workers Health and Safety Legal Clinic

### ➤ **The Underground Economy**

There needs to be better alignment among various levels of government and agencies, as well as partnerships with non-traditional entities that potentially can influence employer behavior and compliance. According to the Ontario Construction Secretariat, the Underground Economy in construction costs Ontario upwards of \$2.4 billion per year as a result of unpaid taxes and failure to register with appropriate authorities (WSIB, CPP, EI) which, under the law, is a requirement for those performing construction work.

The MOL and CPO need to create a climate whereby once a company registers or touches an **entry point** in the surface economy, they are automatically tagged for identification and notification to other partners.

### **Recommendations: Tackle the Underground Economy**

1. *Better partnerships with banks, lenders (i.e. Business Development Bank (BDC)) and other institutions to help identify those operating in the underground economy.*

*For example, WSIB has formed partnership with the BDC and has helped them introduce OHS into their loan application protocol. Essentially, BDC wants to see a sustainable and viable OHS program. The lack of an OHS plan places their loan at risk. This concept could be expanded more broadly across banking and insurance industries for all business and loan approvals.*

2. *Utilizing similar tactics that authorities have used to identify money launderers and those funding terrorist organizations.*
3. *Implementing a sustained and prolonged media campaign (across all levels of government) targeted at informing the public about the dangers of the Underground economy.*
4. *For the residential construction and home renovation industry, there needs to be a media champion like Mike Holmes or Home and Garden Television, who can help deliver the message about the negative impact that the Underground economy has on consumers and the general public*

## **B) SUPPLY CHAINS AND NETWORKS, PROCUREMENT, MOVING LIABILITY UP THE LADDER, AND DESIGNING FOR SAFETY**

### ➤ **Supply Chains And Networks**

Many OHS challenges require actions well beyond the boundaries of a single company. This is because many companies work in supply chains. A supply chain is most often

ruled or governed by one company or organisation, the so called 'focal' company. The focal company forms the centre of the supply chain. It is provided with goods/materials from suppliers and secures contracts with companies who act as service or production providers<sup>5</sup>.

Supply chains and networks are usually established through formal or informal contractual arrangements. When people within a supply chain act cooperatively they can exert greater influence on health and safety than when acting alone. Industry leaders within supply chains and networks need to be champions of health and safety. Safety practices often improve when one respected member of a group adopts new practices, influencing others' perceptions, expectations and actions.

An example is a construction or maintenance project which frequently involves a prime contractor who makes use of sub-contractors (contracting chain). These sub-contractors, in turn, can engage other subcontractors resulting in a complex chain of companies and responsibilities in order to work safely.

Relationships between parties within a supply chain or network can exert positive or negative pressure on work health and safety practices. This is especially the case for micro and small businesses which may have limited resources and limited bargaining power.

### **Recommendations: Reform the Supply Chain Continuum**

Ontario's integrated safety strategy needs to consider the supply chain continuum as a key driver to improve prevention in the workplace. Specifically, the strategy should incorporate the following interventions/tools:

- 1. Ensure that supply chain and network participants understand their cumulative impact and actively improve the health and safety of the supply chain.*
- 2. Develop commercial relationships within supply chains and networks to improve work health and safety.*
- 3. Get industry leaders to champion worker health and safety in supply chains and networks. Industry champions who may come from the employer community, labour community, or other backgrounds, should assist with the empowerment of workers so that they are no longer 'vulnerable.'*
- 4. Just as employers in the supply-chain continuum have the ability to receive financial incentives/rebates for Prevention performance (under Ontario's Experience Rating system), so too should all workers, be able to enjoy financial incentives/rebates for raising legitimate health and safety concerns on the job, without fear of reprisals.*

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<sup>5</sup> European Agency for Safety & Health at Work "Promoting Occupational Safety & Health through Supply Chain Literature Review (EU-OSHA), 2012 Page 11.

### ➤ **Government Procurement Strategies**

The Ontario government's current procurement policies appear to follow two objectives in regard to health and safety. The first of these is to ensure that the prime contractor is the "constructor" within the meaning of the *Occupational Health and Safety Act*. The effect of this is to wholly or substantially insulate the Ontario government from any liabilities arising from workplace incidents or unsafe practices.

The second objective is to make clear in its Project Agreements that the prime contractor has a duty to ensure that construction work is carried out in compliance with the requirements of the *Occupational Health and Safety Act* and its related regulations. To this end:

- Proponents are required to submit a Safety Plan as part of their proposal. By reference, this Safety Plan is then incorporated into the Project Agreement and the contractor is required to comply with their Safety Plan.
- Project Agreements also make explicit a contractor's obligation to operate equipment "in accordance with 'Applicable Law' and 'Good Industry Practice' with respect to health and safety..."
- Among the responsibilities of the Works Committee is addressing any "quality assurance and safety issues".

We have no disagreement with assigning the "constructor" role to the prime contractor. We also endorse making explicit the prime contractor's duty to perform work in accordance with "Good Industry Practice and Applicable Law" including, most importantly, the *Occupational Health and Safety Act* and its related regulations. These are appropriate elements of procurement policy.

However, Ontario's current approach to ensuring safe working conditions on any government funded projects needs to be strengthened. Meeting the minimum requirements of the *Occupational Health and Safety Act* is not enough. Good employers – and Ontario has many good employers in the construction industry and in other sectors – go well beyond the minimum requirements of the *Act*.

As the largest purchasers of construction in Ontario, the government and any of its subsidiaries<sup>6</sup> has a duty to use its position in the construction market to promote best practices in health and safety. Best practices go well beyond the minimum requirements of the *Occupational Health and Safety Act*.

In the procurement paradigm that the Ontario government has established, the place to start is with the required Safety Plan. A Safety Plan must be about more than just how the proponent company intends to comply with the *Occupational Health and Safety Act*.

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<sup>6</sup> This would include Infrastructure Ontario

## ***An Integrated Occupational Health and Safety Strategy for Ontario***

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A Safety Plan must answer the question: "how will safety be ensured on this project?" Among the considerations implied by this question are:

1. *What are the known health and safety risks associated with this type of project?*
2. *What health and safety criteria will be applied when selecting sub-contractors? Will these be mandatory criteria that precede selection based on price? Are there specific health and safety criteria that would preclude a firm from being selected as a sub-contractor?*
3. *What types of general health and safety training should all workers on the project have received before they commence working on the project?*
4. *Who will be responsible for ensuring that workers have either received this training in the past or will take this training before commencing work?*
5. *How will completion of this training be documented?*
6. *How will the prime contractor ensure that all workers have current WHMIS certification?*
7. *What types of work on the project should be the subject of specific types of health and safety training? Who will determine these training needs?*
8. *Who will be responsible for ensuring that workers have either received this training or will take this training before commencing work? How will completion of this training be documented?*
9. *What types of work on the project will require specific health and safety certifications (e.g., working with propane, working from heights, working in confined spaces, etc.)? Who will determine that the workers performing this work have the required certifications?*
10. *What types of work on the project will require specific licenses or operator certifications? Who will determine that the workers performing this work have the required licenses or certifications?*
11. *How will the health and safety committee (or committees) operate? What role will the prime contractor play? Will the Works Committee receive the minutes of these meetings?*
12. *How often will safety inspections take place? Who will perform these inspections? What qualifications will they have? How will deficiencies be documented? How will correction of these deficiencies be verified?*
13. *Will incentive systems for managers be consistent with health and safety objectives?*
14. *What types of health and safety training, if any, will managers be required to take?*
15. *What types of regular reports will the Works Committee receive? What rights will the Works Committee have to pursue a health and safety issue?*
16. *How will the adequacy of the Safety Plan be reviewed and how will Infrastructure Ontario satisfy itself that the prime contractor has adhered to the Safety Plan?*

In addition to specifying in much more detail what is expected in a Safety Plan and what is meant by "Good Industry Practice", the Ontario government will also need to develop a significantly stronger capacity to professionally evaluate the adequacy of Safety Plans and to ensure that there has been adherence to the approved Safety Plan.

This will require a senior executive-level appointment with primary responsibility for health and safety on Ontario government projects. A primary responsibility of this job would be to ensure that workers are equally heard when it comes to raising legitimate safety concerns in the workplace.

### **Recommendations: Improve the Government Procurement Process**

1. *The Ontario government must make clear that it expects prime contractors and sub-contractors on its projects to implement Best Practices and that these Best Practices will often exceed the minimum requirements of the Occupational Health and Safety Act and its related regulations.*
2. *A prime contractor's Best Practices strategy should be reflected in the Safety Plan which will be included as part of its bid submission. Among the considerations that should be addressed by a Safety Plan are:*
  - *Identification of known risks,*
  - *Description of how health and safety factors will figure into the selection of sub-contractors and the incentive rewards of managers,*
  - *Identification of the required training, certifications and licences and a description of how these will be documented for both workers and managers,*
  - *Description of the ongoing inspection system for the project and the various roles and responsibilities that will pertain to health and safety.*
3. *Ontario should create a senior executive-level officer with primary responsibility for ensuring safe working conditions on Infrastructure Ontario projects. This individual and the staff who report to him or her will need to have the technical training and experience to evaluate proposed Safety Plans and to determine whether prime contractors and sub-contractors have adhered to those Plans.*

#### **➤ Move Liability Up The Ladder**

The current *Occupational Health and Safety Act* assigns various duties and liabilities to "constructors" and to employers. One of the key objectives of legal advisors to owner-developers is to structure a construction project so that the owner-developer is insulated from liability.

If an owner/developer does not undertake any part of a construction project, then that owner/developer is not a "constructor" within the meaning of the *OHS Act*. A consequence of this is that owner/developers have no financial incentive to select general or trade contractors with a strong commitment and a good track record on occupational safety.

The Provincial Building and Construction Trades Council of Ontario believes that on large projects (above \$1.0 million), an owner/developer should be subject to penalties for poor safety performance on their projects by the contractors whom they or their agents have selected.

This would have three effects. First, owner/developers will hire or engage specialized experts to ensure that safety standards are maintained on their projects. Second, owner/developers will take safety performance into account when awarding contracts to general or trade contractors. And third, owner/developers will require general contractors and all contractors to be similarly diligent about safety performance when awarding sub-contracts.

A liability that is attached to an owner/developer also would give considerable leverage to the employer accreditation system discussed earlier.

### **Recommendation: Move Liability up the Ladder**

- 1. On construction projects that exceed \$1.0 million, owner-developers should be subject to penalties for poor safety performance on their projects. It should be made crystal clear that sub-contracting does not eliminate liability for health and safety performance.*

**It is important to note that improvements in supply chain, procurement and moving liability up the chain will help deal with vulnerable worker populations and also combat the Underground economy.**

#### **➤ Designing For Safety**

For the construction sector, as in most sectors, the MOL's efforts are concentrated towards "active" interventions. There has been a move to conduct more inspections and provide more safety training.

These "active" interventions are appropriate and necessary. However they are only controlling the hazard. They are not addressing a fundamental flaw that exists in the present health and safety environment; namely, that there isn't anything being done to *eliminate* hazards.

Due to this shortcoming of health and safety regulations, the concept of considering health and safety in design is slowly becoming familiar in the construction industry in some jurisdictions.

Improving the health and safety of the construction site work environment has repeatedly been shown to save lives, time and money. Occupational health and safety regulation compliance and safety practices are able to reduce injuries and accidents, but

are unable to remove hazards inherent in a facility's design or required construction sequence.

Designing for Construction Safety (DfCS) is the process of addressing construction site safety and health in the design of a project. The concept of considering health and safety in design is slowly becoming familiar in the construction industry.

Designers first required to design for construction safety in the UK in 1995. Other European nations have similar requirements. Australia is also a leader in DfCS; see: <http://www.fsc.gov.au/ofsc/Forindustry/Safe+Design/> and manuals *Guidance on Principles of Safe Design for Work* and *Safe Design for Engineering Students*.

It is also interesting to note that both the UK and Australia, in addition to DfCS regulations, also have a prequalification process which incorporates health and safety. In Addendum A, we have attached more information on DfCS.

### **Recommendations: Implement a 'Design for Construction Safety' system**

- 1. The Ontario government should implement designing for safety in the initial project development stage.*

## **C) PRIORITY PREVENTION AREAS**

### **➤ Musculoskeletal Disorders (MSD) and Ergonomics**

In the past few years, the Occupational Health and Safety Council of Ontario (OHSCO) has identified the prevention of musculoskeletal disorders as a key prevention priority. In addition to the physical risks, there are a number of psychosocial risk factors which can lead to musculoskeletal disorders, including excessive job demands, poor working relationships and unsupportive work environments, work-related stress and bullying. By way of illustration, many workers can manifest psychological trauma and stress along with neck and shoulder pains when faced with an unreasonable deadline.

OHSCO and its member organizations have developed a number of resource tools and prevention guidelines for Ontario<sup>7</sup>. However, to date, there hasn't been a coordinated long term plan to combat MSD in the workplace.

### **Recommendations: Develop an MSD Strategy**

A successful management of MSD requires a wide range of interventions, mainly at the workplace level. These include:

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<sup>7</sup> See Resource Manual for the MSD Prevention Guidelines for Ontario, and MSD Prevention Toolbox. Available for download at [www.iwh.on.ca/msd-tool-kit](http://www.iwh.on.ca/msd-tool-kit).

## ***An Integrated Occupational Health and Safety Strategy for Ontario***

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- 1. Increased Inspection as there is insufficient enforcement of the manual handling and ergonomic hazards in the workplace.*
- 2. Beginning to develop Ontario's first Ergonomic standard and supportive regulations.*
- 3. Employers are over-reliant on training to address MSD issues; instead they should be using risk assessment to reduce physical exposures.*
- 4. The quality of manual handling training is inconsistent and often poor. Develop consistent and uniform training standards for material handling.*
- 5. Poor workplace design can increase the need for manual handling, which consequently reduces productivity.*
- 6. A poor ergonomic set up of equipment contributes to musculoskeletal injuries and consequently, reduces productivity.*

### **➤ Mental Health Issues**

Mental health issues are assuming more importance in the workplace. According to the Canadian Mental Health Association, 20% of Canadians will personally experience a mental illness in their lifetime. Approximately 8% of adults will experience major depression at some time in their lives<sup>8</sup>.

Consequently, at any one time there are many thousands of workers in Ontario both at work, and out of work, who have mental health issues. Mental health problems at work include anxiety, depression, major mood disorders, stress, and the effects of bullying and the psychological impacts of workplace violence. In Ontario, as in all jurisdictions, there is substantial stigma still attached to mental health issues.

### **Stress**

Stress occurs when the demands of the work environment exceed the employee's ability to cope with or control these demands. Stress can have emotional, cognitive, behavioural and psychological impacts including depressive disorders. It also has many physiological impacts, including heart disease and gastrointestinal diseases. In addition, stress can also contribute to musculoskeletal disorders. Symptoms include raised blood pressure, chest pain, sleep disruption and irritability.

Too much stress ultimately has a negative impact both on the health of the employee and the performance of the business. Sources of stress occur in the context and content of work. In relation to the context of work, role ambiguity and conflict is a

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<sup>8</sup> Canadian Mental Health Association website. ([www.cmha.ca](http://www.cmha.ca))

common source of stress, while work overload is an example of work content causing stress.

On January 16<sup>th</sup>, 2013, the Canadian Standards Association (CSA), in concert with the Canadian Mental Health Commission (CMHC), labour, and other organizations, launched a new "*National Standard on Psychological Health and Safety in the Workplace.*"

The voluntary CSA standard provides employers with a systematic process and tools to create psychologically safe workplaces. It was developed in response to the emerging realization in Canada and around the world, that workplace psychological health and safety is as important as physical health and safety.

Previously, most discussions of workplace mental health issues have focused solely on workers' ability to cope in the existing workplace environment. There has been little discussion about organizational factors such as high work demands or lack of resources and support that can cause or worsen health impacts on workers. It has become clear that to be effective, strategies to improve workplace mental health must include prevention on an organizational level, as well as organizational and individual supports for workers suffering from diagnosed or undiagnosed mental health conditions.

The standard stresses the importance of identifying and addressing factors such as work demands, work organization, work relationships, threats of violence, violence, discrimination, harassment, and bullying that negatively impact workers' physical and mental health. Preventing "psychosocial hazards" at their source is an important aspect of an employer's overall strategy for maintaining a safe and healthy workplace and in meeting the requirements of the standard.

### **Recommendations: Develop a Mental Health Strategy**

Ontario's integrated Safety strategy should begin to target workplace mental health. Specifically, the strategy should incorporate the following interventions/tools to address mental health in the work place:

1. *Adopt the principles set out in National Standard on Psychological Health and Safety in the Workplace.*
2. *Augment the CSA standard with Mental Injury Tools for Workers (MIT tools) ([www.ohcow.on.ca/MIT](http://www.ohcow.on.ca/MIT)) launched in October 2012 by the Mental Injury Tool Group. The MIT tool—created by workers for workers—provides resources and information for workers, Joint Health and Safety Committees (JHSC) and Health and Safety Representatives (HSR) to take action to identify and prevent workplace factors that can contribute to and cause negative mental health conditions for workers.*
3. *The CPO office should in association with mental health professionals; employer/worker stakeholders create an online organizational assessment tool to identify sources of stress. The assessment tool should provide guidance on policies and procedures relating to management standards (demands, control, support, relationships, role and change) to manage work-related*

*stress. Guidance maybe found in the Work Positive Workplace wellbeing questionnaire for use on-line developed by Irelands Health and Safety Authority. (HSA, 2012) <http://www.hsa.ie/eng/>*

- 4. Workplaces who implement a comprehensive Mental Health strategy may be entitled to an economic incentive. It goes without saying that the any incentives need to be based on objective criteria that is still being developed.*

### ➤ **Noise and Sun Exposure**

Noise continues to be one of the most widespread health hazards in the construction industry. Presently, Ontario's occupational exposure limits for noise do not apply to construction projects. However, employers are still required to take very reasonable precaution in the circumstances for the protection of workers.

The lack of a noise regulation in the construction industry has led to countless numbers of workers to suffer needless noise-induced hearing loss. Voluntary compliance has not worked. In 2010 a joint labour management working group began working on developing a noise regulation. The committee has recently agreed on a proposal entitled: "Noise Working Group-Proposed Changes to Regulation 213."

Construction workers in particular, as a result of working outdoors for prolonged periods of time, are often excessively exposed to the Sun's ultraviolet radiation which makes them vulnerable to various skin cancers including melanoma. The comprehensive provincial health and safety strategy must include appropriate safety provisions that make protection from the Sun mandatory in outdoor workplaces.

### **Recommendations: Develop a Noise and Sun Exposure Strategy**

- 1. The MOL immediately implements changes to Regulation 213 and rescinds the construction exemption.*
- 2. The CPO should include noise exposure health effects and controls into the proposed entry level training for construction workers.*
- 3. The CPO should ensure that worker exposure to ultraviolet radiation be mitigated through appropriate regulations, to protect construction and other workers who experience prolonged exposure to the Sun.*

### ➤ **Vibration**

The number of hand held electric and pneumatic tools in such industries as construction, manufacturing, mining and quarrying is the main cause of vibration in Ontario workplaces.

There are two main types of vibration exposure: hand arm vibration and whole body vibration. Both can lead to muscular/bone structure, neurological and vascular disorders.

Vibration white finger (a form of hand arm vibration syndrome) and carpal tunnel syndrome are two well-known occupational diseases arising from excessive exposure to vibration in the workplace. Currently, there are no specific health and safety regulations to vibration in Ontario.

### **Recommendations: Develop a Vibration Strategy**

- 1. The MOL and CPO office begin the process with labour/management to develop a vibration regulation. We acknowledge that there is a significant challenge to be faced in particular sectors in increasing employers and employees awareness of vibration in terms of prevention, promotion and rehabilitation. However, failure to do so will only lead to more preventable injuries.*
- 2. CPO includes vibration exposure health effects and controls into the proposed entry level training for construction workers.*
- 3. The CPO work with the IHSA to develop resources and prevention materials.*

### **Additional Recommendations: Noise and Vibration**

- 1. Promote the benefits of risk assessment in relation to noise and vibration*
- 2. Promote the benefits of effective design to minimize noise and vibration in the workplace.*
- 3. Implement an awareness campaign for the relevant sectors in relation to their responsibilities for noise and vibration reduction.*
- 4. Initiate research on the relationship between vibration and carpal tunnel syndrome and the combined effects of vibration and noise.*

## **D) OCCUPATIONAL DISEASE/RESEARCH**

### **Morbidity Diseases**

#### **➤ Dermatitis**

Occupational dermatitis is caused by exposure to substances in the workplace that can either irritate the skin by direct contact or cause a delayed allergic reaction. The industries in which dermatitis occurs include hairdressing, food processing, cleaning, and health care and construction. A participatory health promotion approach by managers and workers at the workplace level is seen as the best approach to preventing dermatitis.

There is poor overall compliance by employers and employees in relation to dermatitis in the workplace.

### ➤ **Asthma**

Work-aggravated asthma is a pre-existing condition that is exacerbated by the workplace, while new onset asthma is caused by exposure to workplace sensitizers. Employers should undertake a risk assessment and implement measures to eliminate or reduce exposure (primary prevention). Health surveillance of workers exposed should continue on a regular basis.

### ➤ **Biological Agents**

Workers may be exposed to biological agents in the form of bacteria, viruses and parasites in a number of industries (e.g. healthcare, waste disposal, agriculture, and veterinary), which can result in infection and disease. Both employers and employees need to become more aware of the risks of infectious diseases at work. In addition, different public agencies need to develop more collaborative approaches to tackling the spread of infectious diseases at work.

## **Recommendations: Develop a Dermatitis, Asthma and Biological Agents Strategy**

- 1. Promote awareness amongst employers and employees on the merits of reading and understanding chemical safety data sheets and labels as a precautionary measure to prevent dermatitis and asthma.*
- 2. Promote the value of risk assessment for chemicals and biological agents within specific sectors.*
- 3. Develop an integrated awareness campaign of the risks and the measures taken to prevent it, directed at high risk sectors such as construction. The dermatitis and asthma preventative strategies can be done quickly as most of the work has already been done by the Centre of Expertise for Non Malignant cancer funded through RAC.*
- 4. The ideal situation is that once Asthma, Dermatitis and Vibration are identified as priority areas, then the implementation can be done in partnership with the various HSAs. The MOL, through the inspectorate can ensure compliance.*
- 5. The MOL should continue its efforts to make improvements in hygiene and sanitation conditions at Ontario's construction projects.*
- 6. In an effort to achieve greater compliance and improve hygiene and sanitation conditions on construction projects, it is also important to educate constructors, contractors, workers and suppliers with respect to their duties and responsibilities under the OHSA and Regulations and the requirements of section 29 for the provisions of adequate toilets and clean-up facilities and sanitation requirements.*

7. *Ministry inspectors need to continue to ensure that adequate toilets and clean-up facilities with **running water are provided** at every project and that they are properly serviced and sanitized.*

### ➤ **Mixed Exposures**

Workers from agriculture, construction, mining and other industries are commonly exposed to combinations of chemical substances, biological or physical agents, and other stressors. Knowledge is limited of the potential health effects of mixed exposures.

New approaches are needed to identify additive, synergistic, antagonistic effects from multiple exposures. Research has shown that physiological interactions from mixed exposures can lead to an increase in severity of the harmful effect.

For example, exposure to noise and the solvent toluene results in a higher risk of hearing loss than exposure to either stressor alone. Exposure to carbon monoxide and methylene chloride produces elevated levels of carboxy hemoglobin, reducing the blood's ability to carry oxygen in our bodies.

The problem of mixed exposures is multifaceted, given the large number of combinations that occur every day in a variety of workplaces and in our everyday life experiences.

### **What's being done?**

In Canada and especially Ontario the mixed exposure issue has received minimal attention. In the United States in 1996 the issue of mixed exposures was selected as one of the priority areas of the National Occupational Research Agenda (NORA) to leverage collaborative research efforts for better understanding the complex interactions of mixed exposures<sup>9</sup>.

The mixed exposures research agenda includes the elements generally found in public health responses:

- ✓ Surveillance, evaluation and research, and controls and interventions.
- ✓ Health surveillance is needed to identify mixtures with adverse health effects that cannot be explained by the toxicity of the individual components in a mixed exposure.

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<sup>9</sup> Please see "Mixed Exposures Research Agenda: "A Report by the NORA Mixed Exposure Team."  
<http://www.cdc.gov/niosh/docs/2005-106/pdfs/2005-106.pdf>

The Europeans have developed sophisticated exposure databases which are utilized in primary prevention and the creation of regulations and standards. The data bases also collect data on combined exposures<sup>10</sup>.

### **Recommendations: Develop a Mixed Exposures Strategy**

There has been an enormous amount of work done on mixed exposures<sup>11</sup> in other jurisdictions.

1. *The CPO should attempt to partner up with other jurisdictions to better maximize scarce prevention dollars and utilize tools that have already been developed to help limit and better quantify mixed exposures<sup>12</sup>.*

#### **➤ Occupational Cancer**

In Ontario, occupational cancer accounted for 63% of all accepted work-related fatality claims in 2010, far surpassing the percentage of traumatic injuries and disorders (i.e., fatal burns and amputations), which reached around 23%<sup>13</sup>. Traumatic injuries and disorders had historically accounted for the majority of accepted work-related fatality compensation claims, making up approximately 51% in 1997 compared with approximately 30% of accepted occupational cancer claims that same year<sup>14</sup>.

The number of accepted occupational cancer fatality claims has continued to increase over the years, from 160 in 2004 to 244 in 2010<sup>15</sup>. Accepted fatality claims resulting from traumatic injuries and disorders have decreased from 158 in 2004 to 89 in 2010<sup>16</sup>.

Equally disturbing is that the accepted occupational cancer claims represent only a small fraction of the *actual* number of work related cancers. There is an enormous amount of underreporting<sup>17</sup> especially for mesothelioma<sup>18</sup>. The actual number of

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<sup>10</sup> COLCHIC is a database for occupational exposure to chemical and other agents. Eight French regional health insurance fund (Caisse Régionale d'Assurance Maladie-CRAM) interregional laboratories and the French national research and safety institute (Institut National de Recherche et de Sécurité-INRS) laboratories have stored results and information from chemical agent exposure measurements on this database.

<sup>11</sup> National Occupational Research Agenda (NORA) United States and the Institut National de Recherche et de Sécurité (INRS) France are examples of jurisdictions which have been researching and managing mixed exposures.

<sup>12</sup> Robert Tardif University of Montreal has done extensive work on developing *Prevention Tools for Assessing Risks to Combined Exposures: Models and Alternative methods*

<sup>13</sup> April 2012 Ontario Cancer Fact prepared by the Occupational Cancer Research Centre.

<sup>14</sup> Ibid

<sup>15</sup> Ibid

<sup>16</sup> Ibid

occupational cancers is therefore grossly under-represented by the accepted claim statistics<sup>19</sup>.

More workers in Ontario than in any other province are exposed to asbestos<sup>20</sup>. Ontario industries with the highest accepted occupational cancer fatality claims for the period between 1997 and 2010 include construction and manufacturing, both of which have a history of heavy asbestos use.

Ontario's compensated occupational cancer claims are the most costly to the system, so the prevention of these cancers is a priority that will not only save the lives of workers, but also health care funds.

To change these trends, it is important to further strengthen and enforce occupational exposure limits, and reduce the use of both known and suspected carcinogens and other toxic substances.

### **Occupational Exposure Limits (OEL)**

In the last 10 years the construction industry has had more deaths related to occupational disease than to occupational traumatic injuries. If we factor in morbidity conditions such as noise induced hearing loss (NIHL), and respiratory and general skin conditions, the instances of occupational disease are even higher in the construction industry.

The Ontario Building Trades believes that the only way to prevent the increase in occupational disease claims, for both mortality and morbidity, is by extending the Occupational Exposure Limits (OEL) to the construction industry.

In 2011, a needs analysis was submitted to the Infrastructure Health & Safety Association (IHSA) Construction Legislative Review Committee (CLRC) for consideration of the adoption of Regulation 833 Control of Exposure to Biological or Chemical Agents. Essentially, the proposed amendments to Regulation 833 would remove construction's exemption to the Occupational Exposure Limits. (OEL)

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<sup>17</sup> Kirkham TL, Koehoorn MW, McLeod CB, Demers PA. Surveillance of mesothelioma and workers' compensation in British Columbia, Canada. *Occup Environ Med* 2011;68:30–5.

<sup>18</sup> Payne JI, Pichora E. Filing for workers' compensation among Ontario cases of mesothelioma. *Can Respir J* 2009;16(5):148–52.

<sup>19</sup> Occupational Cancer Research Centre. Research Day 2011: The Burden of Occupational Cancer. Available from: <http://occupationalcancer.ca/wp-content/uploads/2011/03/Burden-Backgrounder-Final.pdf>.

<sup>20</sup> Carex Canada. Occupational Exposure Estimates: Asbestos 2011a [February 13, 2012]. Available from: [http://www.carexcanada.ca/en/asbestos/occupational\\_exposure\\_estimates/phase\\_2/](http://www.carexcanada.ca/en/asbestos/occupational_exposure_estimates/phase_2/).

## ***An Integrated Occupational Health and Safety Strategy for Ontario***

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In 2012, a CLRC working group was formed consisting of industry stakeholders, Ministry of Labour and IHSA. In February 2013 there was a consensus draft regulation formulated and is presently undergoing network review. It is hoped that the regulation will be finalized by early summer and ready to be presented to the MOL later this year.

Extending the OEL's to the construction industry will not immediately lead to a decrease in occupational disease claims. However, it will lead to awareness and the recognition that construction workplaces will need to initiate better surveillance, monitoring and chemical substitutions.

### **Recommendations: Develop an Occupational Disease/Cancer Strategy**

#### **Short Term**

- 1. Extend Regulation 833 to the Construction Industry.*
- 2. The CPO office and the WSIB need to create a partnership with the Ontario Medical Association (OMA) to develop educational materials for doctors on occupational disease.*
- 3. Consider creating an occupational disease awareness course for doctors as part of their yearly professional development requirements. This will help with the underreporting of occupational disease.*
- 4. The CPO will need to explore better ways of developing toxicological data on new chemicals and fibers. This may require a joint effort with the Federal government and other agencies.*

#### **Long Term**

The MOL and the CPO do not have the resources to develop an Occupational Disease reduction Strategy. The following are recommendations for helping to move in that direction:

- 1. The MOL and CPO in collaboration with the Centre for Occupational Cancer and Cancer Care Ontario develop an occupational cancer prevention strategy.*
- 2. The MOL and CPO should also explore partnerships with NIOSH and other international organizations in identifying occupational cancer prevention and research strategies*
- 3. The strategy should include surveillance, monitoring and the creation of an Ontario workplace exposure data base similar to other international jurisdictions<sup>21</sup>.*
- 4. Ontario also needs to begin to deal with mixed exposures. This would include mixed chemicals, noise, vibration, stress and how this impacts disease.*

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<sup>21</sup> COLCHIC is a database for occupational exposure to chemical and other agents. The French national research and safety institute (Institut National de Recherche et de Securite-INRS) laboratories have stored results and information from chemical agent exposure measurements on this database.

5. *Interaction of carbon monoxide and hydrogen sulfide at a physiological and biochemical level. This is an important research question for workers employed in heavy industry (construction, mining) as both these substances are widely used and are co-contaminants.*
6. *The concept of "kindling" within the nervous system. Kindling is a phenomenon whereby repeated low level exposures to chemicals or electromagnetic fields eventually cause symptoms at levels previously tolerated.*<sup>22 23</sup>

### ➤ **Occupational Research**

In Ontario Occupational Research has been funded primarily by the Workplace Safety & Insurance Board. In 1998 the Research Advisory Council (RAC) was created by the WSIB to fund and coordinate occupational research.

The RAC research program had three main components:

- ✓ an annual Solutions for Workplace Change research grants competition
- ✓ an occasional Bridging the Gap research grants competition
- ✓ Centre's of Research Expertise<sup>24</sup>.

Additionally, the WSIB has funded the Institute for Work (IWH).

The RAC's research grants program supported research intended to assist employers, workers, health professionals, health and safety professionals, policy makers, and everyone interested in the workplace safety and insurance system. The RAC research priorities were to:

- ✓ improve prevention of work-related injury and illness
- ✓ better diagnosis, treatment, and rehabilitation
- ✓ fair compensation and return to work of injured workers
- ✓ fair premium assessment of employers.

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<sup>22</sup> Gilbert ME. Does the Kindling Model of Epilepsy Contribute to Our Understanding of Multiple Chemical Sensitivity? *Ann NY Acad Sci* 2001; 933:68-91.

<sup>23</sup> Bell IR, Baldwin CM, Fernandez M, Schwartz GE, Neural Sensitization model for multiple chemical sensitivity: overview of theory and empirical evidence. *Toxicol Ind Health* 1999; 933:319-322.

<sup>24</sup> The WSIB currently funds the Centre of Research Expertise in Occupational Disease (CREOD) and the Centre for Research Expertise for the Prevention of Musculoskeletal Disorders (CRE-MSD) In addition, the WSIB is joint funder, with Cancer Care Ontario and the Canadian Cancer Society's Ontario Division, in collaboration with the United Steelworkers, of the Occupational Cancer Research Centre, located at Cancer Care Ontario.

Since RAC was established many new challenges have arisen as a result of technological innovations, changes in industrial structure, diversification of employment styles, ageing workforce and changing demographics. There has also been the emergence of non-traditional occupational health problems such as combined effects of multiple hazard exposures, contribution of psychosocial factors in disease and reproductive effects of hazardous agents.

In 2012 the Partnership for European Research in Occupational Safety and Health (PEROSH) released a position paper on the occupational safety and health (OSH) research challenges for the future<sup>25</sup>.

Via a consultation process, the PEROSH members identified what occupational safety and health topics the European institutes specialised in, and what they see as the major trends and future challenges in the world of work and their impact on OSH. A second part of the consultation analysed future research needs, solutions and deliverables that will be necessary in the long run to ensure a healthy working life for Europe's workforce, and to secure social progress in the EU. The PEROSH initiative has identified 7 main research challenges:

1. Sustainable employability to prolong working life (older workers)
2. Disability prevention and reintegration
3. Psychosocial well-being in a sustainable working organisation
4. Multifactorial genesis of work-related Musculoskeletal disorders (MSDs)
5. New technologies as a field of action for OSH
6. Occupational risks related to engineered Nano-materials (ENMs)
7. Safety culture to prevent occupational accidents

It is our position that the PEROSH priorities are transferable to Ontario workplaces. The same challenges that will be impacting European workers will affect current and future Ontario workers. Therefore there is no need to necessarily establish a wide consultation initiative to determine Ontario's research needs.

However, there needs to be a discussion on whether the amount that Ontario spends on research is adequate. The entire RAC research budget including the three centres of expertise in 2012 was 3.8 million<sup>26</sup>. In contrast Quebec spends 12 million a year on occupational research.

The current research budget will not be able to meet the future needs of Ontario workplaces. In addition, the centres for research expertise do not have long term

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<sup>25</sup> Partnership for European Research in Occupational Safety and Health, 2012 Report: Sustainable Workplaces of the future- European Research Challenges for Occupational Safety and Health. Available from <http://www.perosh.eu/>

<sup>26</sup> RAC grants = \$2.5 M Centres (CRE-MSD, CREOD & OCRC) = \$1.3M TOTAL = \$3.8M

funding commitments. The current funding structure prohibits long term planning and the ability to attract young researchers. Essentially, without stable funding Ontario will not be able to build an occupational research infrastructure.

### **Applied vs. Basic Research**

Applied research is "hands-on" that is, the researcher is actually working with the topic/subject at hand, while conducting the research. Generally, applied research focuses on "practical problems" such as climate change or workplace safety in order to come up with solutions to better or improve an existing condition.

Basic research is often considered researching for the sake of increasing general knowledge unlike applied research where the knowledge gained truly is intended to solve a specific problem. Basic Research is often called "pure" research and is often considered the foundation for applied research.

Contrary to what some believe, the Research Advisory Council (RAC) has predominantly funded applied research with the intention of impacting the workplace. We acknowledge that some groups may have issues with occupational research and feel that RAC hasn't funded enough applied research or been effective in knowledge transfer.

Those who make those assertions are uninformed and are wielders of mass deception having a complete disdain for any type of research. They are the very forces that believe in a top-down, behavioural approach to occupational safety. Most of these research critics would not participate in any applied research or have no interest in making real change in the workplace due to a fear of losing control and power in the workplace.

Moreover, lack of implementation is not the fault of the researchers or the quality of the research. Researchers do not control the workplace. Ultimately, it's up to employers to put the research to practice. Some employers refuse to implement the studies because they go against what they are doing in the workplace. In addition, some employers feel that occupational research should simply validate existing workplace programs or systems. An occupational research agenda cannot be a quality assurance program or clearinghouse for employer programs. We must move beyond this type of thinking if we are to improve our Occupational Health and Safety System.

Unless the CPO deals with the issues of long-term and sustainable funding it will be difficult to create an effective Occupational Research Agenda in Ontario. Regardless of the funding challenges, we make the following recommendations in regards to occupational research funding:

### **Recommendations: Develop an Occupational Research Strategy**

1. *Explore a sector based occupational research approach. For example in the United States, NIOSH<sup>27</sup> and its partners have formed ten NORA<sup>28</sup> sector councils, including participants from academia, industry, labor and government. Each Council drafts goals, performance measures, and implementation plans for the nation. These agendas provide guidance to the entire occupational safety and health community for moving research to practice in workplaces.*
2. *Consider joint research partnerships with NIOSH and NORA. This will be able to maximize scarce resources as well as introducing new researchers to Ontario.*
3. *Consider aligning Ontario research priorities with what is being done in other jurisdictions. See the NORA, and PEROSH research priorities.*

## **E) OTHER AREAS/RECOMMENDATIONS**

### **➤ Incentive Programs (Experience Rating)**

Section 83 of the Workplace Safety and Insurance Act provides the Workplace Safety and Insurance Board with discretionary authority to establish experience rating programs. The Board first introduced an experience rating model in 1984 with the intent to promote good health and safety and provide insurance equity to employers based on claims experience. Unfortunately, experience rating hasn't had any measurable impact on prevention and in many cases has led to claim suppression and fabricated safety performance.

From 1998 to 2007 experience rating rebates to employers exceeded surcharges by a total of \$880 million.<sup>29</sup> Since 1984, almost \$3 billion have been returned to employers in the form of rebates. It is our position that most employers have been more interested in maximizing their potential experience rating rebate and, in turn, have diverted resources to seek immediate gains through claims management strategies, rather than by investing in long term prevention.

All experience rating has done is create an artificial safety climate and helped drain the WSIB Accident Fund by employers who know how to game the system. If we are to move prevention forward and raise the bar on occupational health and safety

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<sup>27</sup> National Institute occupational Health and Safety (NIOSH)

<sup>28</sup> National Occupational Research Agenda (NORA)

<sup>29</sup> Recommendations for Experience Rating Morneau Sobeco October 28<sup>th</sup> 2008 page 7.

outcomes, then relying solely on employer incentive programs clearly falls short of this goal. By affording incentives to workers to encourage them to raise legitimate safety concerns, as we've recommended in this submission, we will begin to see substantive change on the occupational health and safety front.

The current system renders workers who raise legitimate safety concerns effectively powerless and disposable, as employers seeking rebates strive to achieve 'clean' safety records at the expense of workers who raise real safety issues, and who are injured in the workplace. Real paperwork is not real prevention, and the composite effect of today's incentive system reproduces the state of vulnerability that dominates the new economy.

### ➤ **Effective Means of Measuring Performance "Leading Indicators"**

The CPO is seeking innovative ways to capture new and current data to improve the reliability and validity of metrics. The consultation paper asks about leading indicators that organizations use.

A leading indicator in occupational health and safety needs to signal future events or positive efforts towards preventing injury and illness (e.g. inspections completed, use of safe work practices, etc.).

### **Recommendations: Develop Methodologically-Sound 'Leading Indicators'**

We recommend that the CPO consider the following as "leading indicators":

- 1. Number of health and safety training hours by job / risk classification.*
- 2. Number of inspections / audits performed in a given time frame.*
- 3. Number of work orders or accident investigations performed on time.*
- 4. Number of "near miss" incidents reported and addressed.*
- 5. Number of OHS inspection / audit findings.*
- 6. Percentage completion or implementation of planned site OHS programs.*
- 7. Percentage of personal protective equipment (PPE) compliance.*
- 8. Number of times the Joint committee meets.*

In addition, when it comes to developing measures we feel it is important to track information such as:

- 1. Whether an organization or Industry uses temp agency workers.*
- 2. Whether an organization uses contract workers, Independent Operators etc.*
- 3. Number of workers on modified work (temporary) and (permanent).*
- 4. How many workers in the organization have reported an accident or safety concern in the last 5 years and are still employed with the employer*

### **➤ Health Safety Agencies & Prevention Delivery Services**

In the last few years the prevention system has experienced considerable evolution, resulting from the realignment process. Moreover, in the early stages of the new alignment, there had been a relevant degree of concern on behalf of the stakeholders -- particularly those now served by the Infrastructure Health & Safety Association. (IHSA) There was concern on their part that the sector specific expertise they had become accustomed to could be diluted. Furthermore, effective forums for stakeholder engagement and input could also be compromised.

We feel that the current prevention service delivery model in construction is working fine and should not be altered. The stakeholders are satisfied and appreciative that the IHSA continues to provide sector specific training. Additionally, the current IHSA model serves as an effective mechanism to solicit and receive credible input from industry.

The IHSA is truly bi-partite and is driven by stakeholder participation, when it comes to advancing effective health and safety management and delivery in sector-specific industries. We cannot support any changes by the CPO which would implement a "top down" approach.

### **Recommendations: Review the IHSA**

- 1. The CPO should consider replicating the tri-partite stakeholder participation model in use by the IHSA to other HSA's in the prevention partnership.*

## **F) CONCLUSION**

The Health and Safety strategy needs to keep in mind the ever changing workplace dynamics and will need to adapt to future challenges. Additionally, there will need to

be a built-in review (5 or 10 years) to ensure that it is current and making positive impacts in workplaces and protecting workers.

Equally important is the acceptance that the current level of prevention funding may not be adequate and will need to be increased. The MOL and CPO cannot be influenced by certain employer associations or small business groups who will oppose any funding increase or regulatory changes.

Since the introduction of the Occupational Health and Safety Act nearly 40 years ago, the number of incidents in the workplace has dropped significantly. The evidence therefore suggests that while the costs associated with compliance can be significant, prevention and current health and safety regulation plays a significantly beneficial role.

Increased prevention and regulations can impose costs on businesses in a number of ways. These include the time it takes to understand and comply with duties, the administrative requirements associated with completing risk assessments and records, the cost of new inputs or processes, or the time and cost associated with training and obtaining external advice.

Regardless of the costs associated with Health and Safety, the benefits far outweigh any inconvenience which may impact workplaces in the short term. Ontario's first integrated strategy cannot be highjacked nor watered down by those in the business lobby who are opposed to any initiative which may increase costs. Failure to adequately fund the prevention system will severely diminish the effectiveness of the strategy.

We are worried that certain forces will want to starve the prevention system of money to make the case that the strategy does not work and that it is a burden on employers and therefore needs to be overhauled. This tactic is referred to as "starving the beast" and is utilized effectively by anti-tax crusaders who want to starve government, and then show how ineffective it is, with a view to privatize services as the subsequent remedy.

There is an argument to be made that the employer lobby has done the same thing at the Workplace Safety and Insurance Board (WSIB) by not properly funding the system that they have created, resulting in an unfunded liability. Some employers and politicians are making the point that the WSIB is broke and cannot, on a long term basis, afford to provide the necessary benefits and services to injured workers and can only be remedied by the private sector<sup>30</sup>.

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<sup>30</sup> A Path to Prosperity Series of White Papers released by the Progressive Conservative Party of Ontario (2012) Page 13.  
[www.ontariopc.com/paths/](http://www.ontariopc.com/paths/)

There is also the challenge of political pandering and ideology. At the same time that the MOL is attempting to deal with “vulnerable workers” and the “Underground economy” there are business and political forces actively undermining these attempts.

For example, there has already been a commitment by the Ontario Progressive Conservative Party to reverse Bill 119, which makes insurance coverage mandatory for certain categories of persons operating in the construction industry (independent operators, sole proprietors, partners in partnerships and executive officers of a corporation).

For years, the misuse of the independent operator provision has been the single-biggest catalyst to the growth of the Underground economy in construction. Many employees call themselves ‘independent operators’ so that they may work for a contractor without source deductions on their paycheques for income tax, CPP and Employment Insurance premiums, and in many cases without proper premiums paid by the employer for WSIB coverage.

Those who are opposed to the new rules argue that this is an unfair cost that will force businesses to shut their doors and lay off employees. Actually, it is many of those who now stand against Bill 119 who have for years forced legitimate businesses to shut their doors and lay off employees because through their activity, they have had an unfair competitive advantage.

It is ironic and disturbing that right-of-centre politicians are siding with those who for years have gamed the system and in many cases, have been involved in fraudulent activity.

Additionally, position papers have been published with deceptive titles such as “*Paths to Prosperity*<sup>31</sup>” which have been crafted by right-wing think tanks and are a blueprint for further deregulation.

*Paths to Prosperity* is more a path to despair which embraces neo-conservative economic policies and attacks long-standing legislation while employers are allowed to restructure work organization in ways that will weaken trade unions, reduce labour costs and continue to decrease wages and labour security, reinforcing the exploitative logic of the ‘new economy.’

Even though today, and for the foreseeable future, health and safety will be conducted under extraordinarily challenging conditions and constraints, there is still room for advances, and there is absolutely no excuse for inaction.

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<sup>31</sup> [www.ontariopc.com/paths/](http://www.ontariopc.com/paths/)

## ***An Integrated Occupational Health and Safety Strategy for Ontario***

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The development and implementation of Ontario's integrated Health and Safety strategy will be a foundation for the future of Ontario's workplaces. Once it is in place and publicized in the greater community, it will be harder for political and business forces to dismantle the occupational health and safety system. Community awareness can help combat any opposition, and if the above recommendations are implemented, it is the view of our Council that the results in Ontario's workplaces will speak for themselves.