

# The Employer's Voice

Volume 1, Issue 3

May 2009



## EMPLOYERS' ADVOCACY COUNCIL

*Working with employers to eliminate workplace injuries and their costs*



**Ontario's leading source of Occupational Health and Safety, Prevention and Disability News for Employers**

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**Canadian  
Manufacturers &  
Exporters**  
Ontario

CME

The **FACE** of Canadian manufacturing and global business

See Page 14 for Upcoming Workshops and Forums

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## Ask the Expert:

### Question:

**David Januczowski, Controller, Collins & Aikman**

"Is our Employer liable if something happens to us on the way from our house on the way to a work related training session for the day?"

### Answer:

**Catherine Landgren, Paralegal, a business of solutions, [clandgren@sympatico.ca](mailto:clandgren@sympatico.ca)**

When the conditions of the employment require the worker to travel away from the employer's premises, the worker is considered to be in the course of their employment. As in the above, the worker is travelling from their residence to a training session required by and paid for by the employer. If the worker is injured while taking the most direct route to the training session without any personal errands in between and the accident occurs en-route, then entitlement may exist under the Workplace Safety and Insurance Act (WSIA).

## Tip of the Month:

### **Fax all WSIB claim-related information to the WSIB correctly to avoid processing delays**

#### **The WSIB recommends that you:**

- Write the claim number and the worker's name at the top right hand corner of each page being faxed
- Set your fax machine to the highest possible resolution
- Program your fax machine header information to contain your company's name, fax number and the current date
- Check the fax confirmation sheet to make sure all of the pages were sent successfully

**Courtesy of Michael Zacks, Office of the Employer Adviser**

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## 2009 EAC Annual Golf Tournament

Tuesday, July 14, 2009

Springfield Golf & Country Club - 2054 Gordon St. Guelph (7 km off Hwy # 401 at exit 299)



### MARK YOUR CALENDAR

Dreaming of GOLF but no time for fun?

The EAC is offering a **unique networking opportunity** with lots of great company that will **MAKE YOUR DAY** - all the while donating a portion of funds to a local charity.

Visit our website [www.EACforEmployers.org](http://www.EACforEmployers.org) for Registration, Sponsorship or to provide a gift donation

## New Additional Resources

for Practical Tools in Managing WSIB Claims and the  
Return to Work Process Seminar

*Coming in the Fall 2009:*

### CD ROM ENHANCEMENTS & ILLUSTRATIONS

Due to popular demand, we are pleased to announce that starting in September 2009, this workshop will include a CD with various templates. To name a few:

- Sample injured worker accommodation plan
- Sample letter to health care professional
- Sample WSIB early & safe return to work and more

In case of a workplace injury, this new tool, a FLOW CHART, will help you navigate the ever-changing claim reporting and management process.

For more information or to PURCHASE a copy please send an email to [info@EACforEmployers.org](mailto:info@EACforEmployers.org) or you may contact us at **1-888-663-4929**

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## Pandemic Planning for Employers and Workers

by **Suzanne Bernier**, CEM, CBCP  
Emergency Management Program Coordinator  
**Workplace Safety & Insurance Board**

Over the past few years, well before the recent H1N1 outbreaks across the globe, Ontario's Workplace Safety & Insurance Board (WSIB) has been actively planning and preparing for the next influenza pandemic. As a result of our efforts, we have been recognized in Canada and internationally as leaders in pandemic planning. This article will outline some of the WSIB's key pandemic planning initiatives and resources that may help Employers in developing their own plans.

One of the most important aspects of pandemic planning is awareness. Encourage staff to be vigilant in preventing the spread of influenza at home and at work by practicing proper hygiene etiquette. This includes washing hands frequently, covering mouths and noses when coughing or sneezing, and staying home and avoiding contact with others when sick. Proper hygiene techniques should be reinforced to all staff now, in hopes of preventing the spread of H1N1, and also should be reinforced every influenza season.

If you or your staff have specific questions or concerns about H1N1, provincial and federal hotline numbers have been established. The provincial number is 1-800-476-9708, and the federal hotline number is 1-800-454-0302.

When we first started our pandemic planning efforts at WSIB, one of the first things we recognized was the need to educate and support our staff in advance. As a result, a number of initiatives were introduced during our first annual pandemic awareness campaign in November of 2005. This annual campaign is intended to educate and inform WSIB staff across the province about pandemic illness and how to be prepared, both at work and at home.

Some key initiatives included e-mail messages to all staff regarding holiday travel, staying flu-free and general pandemic awareness. Posters were developed promoting key messages on hand hygiene techniques, general health and how to cover your cough. Pandemic awareness headlines were posted on our intranet website, with a link to Frequently Asked Questions on pandemic influenza.

Continued on Page 5

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## Pandemic Planning for Employers and Workers

Continued from Page 4

Hand sanitizers and hand hygiene tip sheets, as well as general information brochures on influenza were also prepared and distributed to all staff. Hand hygiene reminder signs were installed in all washrooms, to help promote proper hand washing techniques. In addition, Alcohol-based Hand Rub Stations were recently installed at elevator banks on all floors of all WSIB offices across the province.

A number of external products were also created to help the Employers and Workers of Ontario plan for a possible pandemic, and are posted on our website's Pandemic Page for free download. The WSIB website is [www.wsib.on.ca](http://www.wsib.on.ca). The Pandemic Page also provides links to other valuable websites and resources on pandemic planning. We also continue to encourage Employers to include infection control and pandemic plans into both their business plans and occupational health and safety policies and procedures.

Another area we've been working on is how to identify our current human resources through staff inventory lists, and ensuring all critical positions within the organization have at least two trained back-ups. Keep in mind that during a pandemic, up to 50 % of your staff may be absent at any given time. As a result, it's extremely important to review your current business continuity plans to identify staff with special skills and/or training to perform critical functions.

Your employees are your biggest and most valuable asset. If you have unionized employees, be sure your Union representatives are involved throughout the planning process. If arrangements and agreements can be firmed up ahead of time, your organization will be better prepared to respond quickly and effectively during a pandemic.

The WSIB continues to work on plans and procedures to help ensure our staff, as well as the Employers and Workers of Ontario, are prepared to deal with the unique implications that may arise during a pandemic. As our work continues and as we receive further guidance and direction from the Ontario government, we will ensure our staff and clients are kept informed, and our plans and procedures are revised accordingly.

While no one can prevent the next pandemic, organizations can ensure they have the proper plans in place to help educate and prepare their staff, clients and the organization as a whole.

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## Advocacy Update

**EAC continues to work diligently through its members and Policy & Legislative Committee, as well as the Ontario Business Coalition (OBC) to present our position on the following issues:**

### **New Service Delivery Model (NSDM):**

Our EAC working committee met with John Slinger, Chief Operating Officer, WSIB, in April, to express our members' concerns with the NSDM. It was agreed that EAC will establish a group that will work with WSIB senior staff to identify and provide solutions/recommendations as to how improvement might be applied to the model and provide better client service.

This will begin in June under the guidance of our Policy/Legislative Committee. Meanwhile, if you have any specific issues or input to the above, please let us know so we can forward to WSIB for consideration.

### **New Experimental Experience Rating (NEER):**

It is EAC's position that the Morneau Sobeco study falls markedly short of providing a credible solution to the existing system. It did ignore the comprehensive findings of the Institute of Work and Health (June 2005) report "Assessing the Effects of Experience Rating in Ontario," the report did not even address employers input for the review/discussion of a prospective experience rating.

Again, the EAC through its Policy & Legislative Committee will continue to pursue and communicate our position with WSIB. We strongly support the principles of an experience rating risk insurance based program that shifts costs from the better performing to the poorer performing employers. A consultation paper is coming soon from WSIB for stakeholder input. EAC will keep you posted on the document once released.

## Employers' Advocacy Council (EAC) in the Media

The Mississauga News - March 26, 2009 - [Details](#)

## Top Workplace Hazards

The top workplace hazards pose a threat to workers everyday. Use the following helpful links to learn how to work safely. [Details](#)

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## Workwell Update

### Workwell Deferral Policy to be Cancelled

In a written message dated May 19, 2009 from Donna Jewell, Manager Safety Groups WSIB, indicated that the Prevention Management were reviewing the current Workwell deferral policy. It was confirmed that a **decision has been made to cancel the policy of allowing a 12 month deferral** of a Workwell audit to firms that join a Safety Group or SCIP effective July 31, 2009.

**Until the effective date of the policy change, July 31, 2009**, firms that received a letter advising they have been selected for a Workwell audit, may complete a Safety Group program application form for January 1, 2010 and should **receive a deferral as soon as they advise Workwell that they have applied to join the program until December 2010**. The firm should submit a copy of their application form to their Workwell evaluator. The firm may be deferred if they:

- Have not received a deferral in a prior year
- Have not been selected on a third party referral
- Have not started the Workwell process
- Do not withdraw/be removed from the Safety Group program in 2010

EAC is a founding sponsor of a Safety Group program. EAC encourages you to join our Safety Group program which will allow you the deferral. Your firm will benefit from an enhanced health & safety program as well as have the potential to receive additional financial rebates from WSIB. For more information please contact us at **1-888-663-4929** or email us at **info@EACforEmployers.org**.

**[Select here to download a copy of the 2010 Safety Group Application Form](#)**

*The EMPLOYERS' ADVOCACY COUNCIL has sponsored a very successful Safety Group since 2000. Your member firms have demonstrated consistent yearly reduction of the groups' lost time injury frequency rate...I applaud your dedication to improving workplace health and safety for your members. You are on the road that leads your members to higher productivity, improved employee morale, ultimately developing a sustainable health and safety program and lowering compensation costs. Congratulations on your commitment to health and safety in the workplace. This is an important step in the right direction towards making Ontario workplaces safer.*

**Donna Jewell, Manager, Safety Groups Program, Standards & Incentives Branch – Prevention Division, Workplace Safety & Insurance Board (WSIB)**



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## Update on the re-alignment of the Health & Safety Associations (HSAs)

We have obtained the latest update from WSIB on the progress of the re-alignment of the HSAs. For the time being, interim “names” for the new entities are being developed for purposes of incorporation. Once the organizations are up and running, formal “names” will be developed and landed on.

[Details](#)

## NEER Information Session Update

WSIB had scheduled 22 workshops across Ontario for April/May to provide information on the NEER statements, however, a decision internally was made to cancel the workshops before they started. Due to the overwhelming response by registrants, EAC has taken the lead by offering a number of hands-on workshops (total of 8 across the province running from April 22—May 29) within one week of WSIB cancellation, facilitated by Ron Lovelock, former WSIB Director of Prevention Services and an expert on NEER. The feedback by participants was very well received.

*“I certainly learned a lot about what the numbers meant and where they came from. Also, I was given avenues to get further information/help.” Heather Leslie, FirstOnSite Restoration L.P.*

## EAC Safety Group Update

### The three Safety Groups:

**Multi-Sector, Magna and the Canadian Vehicle Manufacturers' Association (CVMA),**  
are progressing well!

We're in the midst of the third meetings of the five scheduled for this year. Validation audits are moving along nicely, in fact, the majority are now completed, with most results being very good. The EAC website has been enhanced; Safety Group members can now log in to their secure area to view samples of all the different elements under the Safety Group program. If you have thoughts, suggestions and/or resources to share, please don't hesitate; many of the members have and this helps to make the Safety Groups that much more enjoyable and resourceful for all members!

Thanks for your cooperation as we make this another successful year!



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## Impact of New Ontario Human Rights Regime on Employers

by Lisa Stam and Jake Irwin  
Baker & McKenzie LLP

Recent changes to pursuing a human rights claim in Ontario could have some negative impact on employers.

### Changes to the Human Rights Code

The *Human Rights Amendment Act* took effect on June 30, 2008. While the *Act* made no changes to the substantive provisions of the *Human Rights Code*, it determines new roles for the Ontario Human Rights Commission and the Human Rights Tribunal of Ontario.

### New Role for the Commission

Under the new system, the Commission will no longer fulfill any of its prior roles as adjudicator. Applicants will file applications directly with the Tribunal under the new "direct access" model.

### Impact on Employers

Many of the changes may lengthen and curtail an employer's ability to respond to a claim. These changes include:

- (a) Applicants will now have a year instead of six months to consider making an application.
- (b) Under the new rules, respondents must provide detailed information to the Tribunal about the context of a complaint and disclose lists of evidence on which it will rely. This amounts to significant effort in the respondent's initial response to an application. It is anticipated that the increase in effort involved in preparing written responses and oral submissions will mean fewer quick settlements.
- (c) The Tribunal may not finally dispose of an application without affording the parties an opportunity to make oral submissions, essentially giving everyone their "day in court" once the claim is filed.
- (d) The new legislation empowers qualified applicants (which are usually the employee) by providing legal support throughout the application process.
- (e) In light of the new "direct access" model, there is the real risk that numerous unmeritorious applications will make their way to the Tribunal for hearing, at a great cost to employers who will have to defend themselves in matters that likely would not have reached the Tribunal stage under the old legislation.

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## Impact of New Ontario Human Rights Regime on Employers Continued from Page 9

### Awards

The most significant change is that employees may now sue their employers for a breach of the Code as part of a wrongful dismissal or constructive dismissal action in court.

The Employee may request as part of their damages, any remedy which is provided for under the Code in addition to his or her reasonable notice claims and possibly punitive/aggravated damages. This includes not only the monetary damages, but also orders of reinstatement and apologies.

The former cap of \$10,000 for compensation for damages for mental distress has been revoked. The Tribunal can impose fines of up to \$25,000 for violating human rights.

### Strategies for Employers

There are a number of practical ways an employer can limit exposure to a discrimination claim:

- Ensure workplace Human Rights policies and procedures are in place
- Regularly review and update the policies and procedures
- Educate and train your supervisors and staff about the policies and procedures
- Apply the policies and procedures consistently in your workplace
- Meticulously document internal complaints and investigations into those complaints
- Be proactive about discrimination in the workplace

### Conclusion

On the whole, while the positive intention of these amendments is to streamline the process, give applicants direct access to the Tribunal and to cut down on the length of time it takes to pursue a human rights claim in Ontario, a negative impact on employers is that these amendments may expose employers to greater liability for breaches of the Code and may make it easier for applicants to obtain remedies from the Tribunal. ≈

## Electrical Safety

(As published in the Electrical Business Magazine, April 2009)

by John Salmon, President, Master Electrician, A.R. Milne Electric Ltd.

[Details of Article - Page 25](#)

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## Ministry of Labour (MoL) - Update from the Minister's Office (May 6, 2009)

Once again things have been busy around the Ministry of Labour over the past few weeks.

Please see the link below for an update on how the Ministry has been working diligently to ensure fair and safe workplaces across Ontario.

### [Temporary Help Agency Employees Obtain New Rights](#)

Ontario has passed legislation to ensure that temporary help agency employees are being treated fairly and have better opportunities to move to sustainable employment. This bill has received Royal Assent today and will come into force 6 months from today

[Details](#)

### [Ontario Acts to Help Temporary Foreign Workers](#)

A new toll free telephone hotline, outreach team, and information fact sheet will help employees who are part of the federal Live-in Caregiver Program address issues regarding their employment rights.

[Details](#)

### [New Legislation to Tackle Workplace Violence](#)

Violence and harassment have no place in the workplace. That's the message Ontario is sending by introducing legislative amendments to the Occupational Health and Safety Act that would, if passed, help protect workers from workplace violence and harassment.

[Details](#)

### [Ontario Proposes Support for Organ Donors](#)

Ontario is taking steps that would make it easier for individuals to donate their organs by providing job-protected leave. This bill has passed committee and is awaiting third reading.

[Details](#)

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## Ontario Superior Court awarded \$500,000+ for damages in workplace abuse

On December 3, 2008, an Ontario Superior Court judge awarded more than \$500,000 in damages against a supervisor and employer for the abusive treatment the supervisor caused a worker. This abuse led to the worker developing post traumatic stress disorder and long-term depression, and made it impossible for the worker to return to any kind of work. This decision has been appealed. You can read the decision at:

[Details - full decision](#)

[Details - Summary of decision](#)

Courtesy of Michael Zacks, Office of the Employer Adviser

EAC's Special Feature Presentation on:

## Preventing Workplace Violence

Friday, June 26, 2009 (8:30 am to 10:00 am) - Mississauga

By  
Cheryl A. Edwards  
Partner, [Heenan Blaikie LLP](#)

Cheryl A. Edwards is a former Ontario Ministry of Labour OH&S Prosecutor and is Lead in Heenan Blaikie's national OHS & Workers' Compensation Practice Group. Cheryl has more than 20 years of experience providing strategic, focused, practical advice and in-house training for public and private sector organizations. She also has extensive experience representing clients at trials, complaints, inquests and appeals. She has authored numerous texts and special reports on OHS topics, and has been recognized as a leading OHS practitioner for over 10 years.

Workplace Violence is a significant issue demanding the attention of employers and management in Ontario and across Canada. This presentation will remind participants of key legal obligations and complexities to the topic of workplace violence, including human rights obligations, common law and collective agreement obligations, and more significantly, current and evolving OH&S obligations, enforcement risks, and worker rights. Ontario's approach to enforcement of workplace violence as an OHS issue and a detailed outline of the proposed amendments to the OHS Act in Bill 168 will be the primary focus of this presentation.

**For more information or to register for this must-attend presentation, call 1-888-663-4929 or send an email to [info@EACforEmployers.org](mailto:info@EACforEmployers.org)**

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MARK YOUR CALENDAR

## Fall 2009 Business Summit

Thursday, November 5, 2009 - GTA (details to follow)

### Our March 26, 2009 Business Summit was a great success!

Here are just a few of the comments made by our attendees:

*The entire conference was enjoyable and very informative*

*Both keynotes, Hazel & Steven excellent*

*Great summit – excellent keynote speakers – excellent information*

Pictures from our March 26, 2009 Business Summit in Mississauga:



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## Bill 169 Defeated; no presumptive leg. for volunteer and P/T firefighters

Bill 169 regarding presumptive legislation for part-time and volunteer firefighters received 2nd reading in the House on May 14 but was defeated by a vote of 10 to 23, although every MPP who spoke said they are in favour of presumptive legislation for this group.

One concern raised was with respect to cost as the proposed legislation would cover injuries sustained on or after 1960 under the WSIA. Another concern raised by Liberal MPP (Brant) Dave Levac was the “complexity” involved in determining work-relatedness when taking into consideration that many part-timers or volunteers have other jobs from which occupational exposures could contribute to their development of occupational illnesses, i.e., working with chemicals in farming or manufacturing. He said Bill 169 did not address those situations.

Liberal MPP (Brampton West) Vic Dhillon -- also Parliamentary Assistant to the Minister of Labour -- said this issue is an “active file” in the MoL and therefore claimed this private member’s bill is “unnecessary legislation.” He said, “once the government has determined how the volunteer and part-time firefighters and fire investigators are to be covered by the presumption for occupational disease and heart injury, a regulation can be brought forward.” Stakeholder discussions are apparently ongoing. [Details](#)

## Manufacturers & Exporters (CME)

CME – the **FACE** of Canadian manufacturing and global business

### Upcoming CME Workshops & Forums:

#### **Skills for Sales Success Workshops: Planning for Profit**

Tuesday, June 23, 2009 Mississauga ON [Details](#)

#### **Energy Conservation and Demand Management Forum**

Thursday, June 25th, 2009 Kingston ON [Details](#)

#### **LEAN on LEARNING to Leverage Continuous Improvements**

Thursday, June 24, 2009 Mississauga ON [Details](#)

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## EAC June 2009 Events Calendar

### June 2009

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

#### June 10 & 17, 2009:

#### ***Practical Tools for Managing WSIB Claims and the Return to Work Process***

Kitchener - June 10 (8:00 am - 4:00 pm)

Markham - June 17 (8:00 am - 4:00 pm)

#### [Details](#)

#### June 18, 2009:

#### ***Workwell Audit Workshop***

Kitchener (8:00 am - 4:00 pm)

#### [Details](#)

#### June 26, 2009:

#### ***Preventing Workplace Violence***

Mississauga (8:30 am - 10:00 am)

For additional info or to register please contact [bonnie@EACforEmployers.org](mailto:bonnie@EACforEmployers.org)



# The Employer's Voice

## EAC Team

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The Employer's Voice Newsletter is published 6 times per year by the Employers' Advocacy Council, 625 Wabanaki Drive, Unit 4, Kitchener N2C 2G3, a division of Canadian Manufacturers and Exporters, the FACE of Canadian manufacturing and global business. We welcome your comments, questions or suggestions regarding the Employer's Voice Newsletter. If you wish to contribute an article to this publication please send an email to [editor@EACforEmployers.org](mailto:editor@EACforEmployers.org).

## Thank you to our Partners:

[Ministry of Labour \(MoL\)](#)

[Workplace Safety & Insurance Board \(WSIB\)](#)

[Office of the Employer Adviser \(OEA\)](#)

[Canadian Centre for Occupational Health and Safety \(CCOHS\)](#)



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And we would be happy to share  
the excitement with your fellow  
EAC members