



## *Executive Director's Report*

### **PROMPT PAYMENT ONTARIO (PPO) UPDATE**

The government appointed Construction Lien Act (CLA) review team has received an extension to March 31, 2016. PPO had its consultation with the review team in late October and have subsequently submitted their written submission. All meeting summaries and stakeholder submissions are posted on the review website:

<http://www.constructionlienactreview.com/documents/>

As you will recall, many of our AAO members participated in the PPO Trade Contractor Survey. The survey had 535 responses and has provided PPO with excellent information to support their submission. The PPO overview of the submission to the CLA Review and Trade Contractor Survey results will be emailed to you. Again, PPO's first priority is prompt payment. An additional 26 new issues were identified through the consultation process and PPO recently submitted their comments on these issues. PPO has engaged two firms to assist in government relations lobbying and raising the public image of this issue.

### **MINISTRY OF LABOUR (MOL) 2015 UPDATE**

I am sure all of you will agree; we hope that 2016 results in no fatalities or at least continue to see in reduction of fatalities like in 2015 compared to 2014. Critical injuries for 2015 were slightly up compared to 2014. There is no doubt that this goal of improving workplace safety is challenging; however, we should never give up or view construction related deaths and injuries as just part of the job. This is unacceptable.

<b>2015#</b>		<b>2014#</b>	
1st January – 31 December 2015		1st January – 31 December 2014#	
<b>Fatalities</b>	<b>16</b>	<b>Fatalities</b>	<b>20</b>
<b>Critical Injuries</b>	<b>140</b>	<b>Critical Injuries</b>	<b>134</b>

To help us understand why fatalities and critical injuries continue, recently MOL inspectors were asked by Michael Chappell, Provincial Coordinator, for their feedback on what they saw as the key issues and trends and where MOL should focus enforcement efforts.

A few key points from their feedback:

- 63.3% of inspectors said the number one issue in worker safety is lack of fall protection including the lack of training both in "Working at Heights", and under section 26.2(1) of the construction regulation. Falls from heights continues to be the number one reason that workers are killed and critically injured.
- Inspectors advised that there is a shortage of equipment operators that have formal training, especially on low-rise residential projects.
- Inspectors said there are employers that do not respect the safe approach limits for working around energized electrical conductors and that "near misses" with electrical contacts are downplayed by many employers.
- Inspectors also advised that there is a significant issue with "individuals" who work for cash, or piece-work production which results in a workplace culture where the speed of getting things done is more important (at least of those individuals) than the safety of workers doing the work.

The past 25 years have shown a remarkable improvement in health and safety on constructions projects – let's continue our commitment.

*Executive Director's Report (continued)***WSIB UPDATE - Ontario Nominates New WSIB President**

Ontario has nominated Thomas Teahen as President of the Workplace Safety and Insurance Board (WSIB). Mr. Teahen would succeed David Marshall who will begin his new role as Special Advisor to the Minister of Finance in February 2016. Marshall has served as the President and CEO of the Workplace Safety and Insurance Board (WSIB) for the last six years. The new President and CEO of the WSIB was selected through an open, fair and impartial competition. The nomination is subject to review by the Standing Committee on Government Agencies.

Mr. Teahen is a highly qualified public service executive who would bring his considerable expertise and experience to bear in this role and would ensure the WSIB continues to build on its current path.

Mr. Teahen has held key government positions, including a role on the WSIB's senior executive team as Chief Corporate Services Officer from 2010 to 2013.

**UPCOMING FEBRUARY EVENTS****EBA/Carpenters Bargaining Meeting**

February 23 - 24, 2016

(Robert Troup, Doug Smith, Joe Liberman and Paul Gunning attending)

**UPCOMING Office of the Employer Advisor WSIB WEBINARS**

Copy the following URL to your browser to register:

<http://www.employeradviser.ca/en/construction-employer/> (see right side "Upcoming Events")

**Mental Stress – The New Landscape**

February 4, 2016 - 10:00 a.m. – 11:00 a.m.

**Claims Management Tips**

February 11, 2016 - 10:00 a.m. – 11:00 a.m.

**Director's Forum – WSIB Update, an Employer's Perspective**

February 18, 2016 - 10:00 a.m. – 11:00 a.m.

**UPCOMING Mathews Dinsdale Seminars**

Copy the following URL to your browser to register for new sessions or review archived session videos:

<http://www.mathewsdinsdale.com> (see right side)

**Claims Management I**

February 25, 2016

8:30 a.m. - Noon

**Claims Management II**

February 25, 2016

1:00 p.m. - 4:30 p.m.

**HR Boot Camp**

March 8, 2016

8.30 am - 4.30 pm

If you have any questions, please call me at 519-671-5930.

Paul Gunning  
Executive Director

*The Mathews Dinsdale Minute*

The use of medical marijuana is on the rise in Ontario. As a result, many employers, including ones in the construction industry, are grappling with how to manage employees with a prescription for “pot”.

Employers face two competing obligations: on the one hand, employers have a duty to accommodate disabled employees, and medical marijuana is used to treat medical conditions that can constitute a “disability”. On the other hand, employers must take every reasonable precaution to ensure the health and safety of their workplaces.

In facing this dilemma, we recommend employers treat prescriptions for marijuana as they would any other prescription medication, and assess the likelihood that the prescription will result in the employee’s impairment at work.

A construction employee is not entitled to be impaired while on the job, as this would compromise his or her safety, or the safety of others. However, if the employee can provide medical documentation that the prescription will not cause impairment at work, the employee may be permitted to work. Alternatively, employers may wish to consider providing other accommodation measures, similar to those provided to other disabled employees. These measures may include many options, including moving the employee out of safety-sensitive positions, implementing alternative scheduling or other changes in the workplace structure. Many of these may be hard to do on a construction site, but they shouldn’t be presumed to be impossible.

The emergence of medical marijuana has created unique and unprecedented challenges for employers. It may seem daunting; however, employers need not change their practices drastically. Again, to accommodate an employee who uses medical marijuana, an employer can start by mirroring the practices it has developed for accommodating any employee who has been prescribed medication that has the potential to impact or impair his or her work.

With time, many issues and uncertainties surrounding the use of medical marijuana will be litigated. We will be provided with lessons from the caselaw as to how an employer can best ensure that it fulfills its human rights obligations, while also ensuring the workplace remains safe and productive. Until then, you should be prepared in case it comes up in your workforce.