



## *Executive Director's Report*

### **Workplace Safety and Insurance Board (WSIB) Update**

#### **Reminder - 2016 Premium Rates**

WSIB just recently announced that 2016 premium rates will be maintained at current levels for all employers. For rate group 719, Inside Finishing Contractors, premiums will remain at \$7.51 per \$100.00 of payroll.

#### **WSIB Rate Framework Reform Consultation**

Since publishing the July stakeholder update on Rate Framework Modernization, the WSIB has continued to facilitate working group sessions with employers, employer associations and representatives, injured workers and labour groups. These sessions have provided stakeholders with a better understanding of the proposed modernization and have allowed them to share their perspectives and suggested amendments to the proposed Rate Framework towards providing the WSIB with their submissions.

In addition, in August, the WSIB published Rate Group Analysis and Risk Disparity Analysis that identified how employers could be classified and what premium rates could look like, in addition to providing insight into the potential expansion of the number of industry classes, to address the disparity of risk between industries.

In terms of next steps, following the close of the consultation period on October 2, 2015, the WSIB will continue to review and analyze the submissions received. The WSIB will be hosting a session with stakeholders, before the end of the year to share an overview of some of the perspectives received as part of the consultation. It will also highlight an updated Rate Framework that incorporates a number of suggestions and recommendations made by stakeholders through the Working Group sessions and submissions.

Following this session and the publishing of revised Rate Group Analysis, stakeholders will have the opportunity to further share their thoughts on the updates and changes made, as the WSIB moves toward the finalization of a new Rate Framework.

Below, the WSIB has identified some of the additional themes that have emerged from stakeholder working group sessions since the July update.

#### **Experience Window**

Similarly, stakeholders have suggested that the proposed six year experience window might be too long, and would not take into account recent improvements in health and safety made by employers. Stakeholders have commented that more recent years are indicative of the current workplace, and a potentially reduced experience window should be considered. This point was usually discussed alongside the previously identified theme of valuing more recent experience, with the combination of a six year window but providing more recent experience (e.g. 2-3 years) more value or weight.

#### **Rate Group 755: Non-Exempt Partners and Executive Officers in Construction**

Some stakeholders in the construction sector have raised concerns about removing the concept of Rate Group 755 for executive officers and partners in construction. This Rate Group provides a reduced rate for a group of workers that are not 'on the tools' undertaking construction work as defined in Class G : Construction. Others have suggested that purpose of this group is diminished given the proposed preliminary Rate Framework provides employers with individualized rates that are based on their performance, and is misaligned with the treatment of other industries.

#### **Predominant Business Activity**

The issue of determining predominant business activity when an employer has two or more completely unrelated business activities has also been raised. As an example, consider an employer who runs a bed and breakfast, and refinishes furniture

during the low season. In this example, the employer operates two separate and distinct business activities, and may be incorporated under the same company or different - neither business activity is ancillary or necessarily associated, nor is either necessarily dependent on the other.

As such, it has been suggested that the WSIB consider allowing multiple rates for distinct business activities that have no ancillary relationship, association or dependency, whether constituted as a single legal entity or not.

**Fatal Claims**

The WSIB's current Fatal Claims Policy would be inoperable in the proposed Rate Framework, as a result of replacing the current experience rating programs and the associated rebates. The current policy is specifically tied to NEER and CAD7 rebates. Some stakeholders have commented on whether other options should be considered to address fatal claims. A number of other Workers' Compensation Boards in Canada use a fixed proxy cost in place of the actual cost of the fatal claim, e.g. the average cost of a fatality across all industries or the per claim limit for a given employer.

These options are seen as attempts to normalize the cost of a fatality across employers, irrespective of the circumstances of the particular worker, to avoid absurd and variable premium implications, which some have suggested are a significant concern with the current approach. Others have suggested that the WSIB should simply consider actual costs and not have any special treatment of fatalities.

COCA's WSIB – OH&S Committee of which AAO is a member is continues to review developments and AAO will keep members informed of the upcoming year end WSIB session with stakeholders.

**IHSA Chair & Co-Chair Labour-Management Health & Safety Committees Meeting**

October 7, 2015 (Paul Gunning attending)

**Take Advantage Of These FREE ONLINE September OEA WSIB Webinars**

Copy the following URL to your browser to register:

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

Webinars are under "Upcoming Events" on the right side.

**Employers Guide to Form 7 Webinar** October 8, 2015 - 10:00 a.m. – 11:00 a.m.

**WSIB Appeals Webinar** October 15, 2015 - 10:00 a.m. – 11:00 a.m.

**Mental Stress-The New Landscape Webinar** October 22, 2015 - 10:00 a.m. – 11:00 p.m.

**Upcoming Mathews Dinsdale Seminars** Copy the following URL to your browser to register:

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

**OHS in Canada: The Year in Review-Free Webinar** November 4, 2015 – 12:00 p.m. – 1:30 p.m.

**Claims Management I** November 19, 2015 - 8:30 a.m. - Noon

**Claims Management II** November 19, 2015 - 1:00 p.m. - 4:30 p.m.

**CAD-7 for Employers** November 24, 2015 - 1:00 p.m. - 4:30 p.m.

**Appeals Management** December 10, 2015 - 8:30 a.m. – 4:30 p.m.

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

Paul Gunning

Executive Director



Do you know what your rights are with respect to computers your staff use in the workplace?

An arbitrator in Ontario has recently considered whether an employer was permitted to monitor an employee's personal email on an employer-owned computer. In that case a supervisor noticed that an employee was sending emails from his personal account on a work computer. The computer was open and the email was visible, even though the employee had gone home for the day. Afterwards, the employer, which had two relevant policies in place, continued to monitor the employee's personal email. The first policy stated that email and internet usage provided by the company was for the sole purpose of conducting company business while the second reserved the employer's right to monitor, access and disclose the electronic communication and internet activities of any person using company systems. In finding that the information the employer retrieved from the computer was admissible to support its case for just cause termination, the arbitrator noted that the employer did not engage in a fishing expedition, reading the "RE line" of the employee's emails and only opening those that appeared to be contrary to company policy. Furthermore, the arbitrator found that any expectation of privacy the employee may have had in respect of his personal email account was lost when he left his computer screen open upon leaving the workplace.

While this is your equipment, employees use, and the risks of unauthorized computer use are significant (damage from viruses alone can be costly), it is important that you have policies in place limiting what your employees can expect and reserving all of your rights.



## New AAO Executive Board

At the Annual General Meeting recently held at Niagara-on-the-Lake the following members were acclaimed to the Association's Executive Board:

### Board of Directors

President	Robert Troup	Trojan Interior Contracting Limited	Windsor, Ontario
Vice President	Douglas Smith	Smith Brothers Contracting Corporation	Ancaster, Ontario
Treasurer	Nat Figliano	Lincoln-Arrow Construction Ltd.	Concord, Ontario
Director	Forese Bertoia	Bertoia Lathing Limited	Kingston, Ontario
Director	Dan Donovan	Donovan & Lebeau Ltd.	Kanata, Ontario
Director	Domenico Filoso	Marcantonio Constructors Inc.	Ottawa, Ontario
Director	Dave Gibson	Labrosse & Gibson Ltd.	Gloucester, Ontario
Director	Bob Grassing	Grassing Drywall & Acoustics Ltd.	Waterloo, Ontario
Director	Robert Macdonald	J. A. Macdonald (London) Ltd.	London, Ontario
Director	Paul Normand	B.J Normand Limited	Ottawa, Ontario

### Area Representative

Steve Creces	CD Drywall & Acoustics (London) Ltd.	London, Ontario
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### Senior Advisors

Mr. Jack Donovan	Donovan & Lebeau Ltd.	Kanata, Ontario
Don Sutherland	W.A.C.C.A.	Ottawa, Ontario