



Workplace Safety



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Workplace Health & Safety Updates in Ontario

Over the last decade, we've worked with many talented property managers and property management companies regarding their health and safety needs and requirements. Recently, on July 1, 2022, the laws in Ontario changed. A new Bill 88 – *Working for Workers Act, 2022* – was introduced. Schedule 4 deals with significant changes to the *Occupational Health and Safety Act*. It states;

Schedule 4 Occupational Health and Safety Act

The *Occupational Health and Safety Act* is amended to require employers to provide naloxone kits and comply with related requirements if the employer becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose at a

workplace where that worker performs work for the employer, or where the prescribed circumstances exist.

Various amendments are made to the Act in respect of fines applicable for convictions under the Act. The maximum fine is increased from \$100,000 to \$1,500,000 for directors or officers of corporations and to \$500,000 for other individuals. A list of aggravating factors to be considered in determining a penalty is also added and the limitation period for instituting a prosecution is extended from one year to two years.

Over the years, condo corporations have occasionally had a disconnect wherein they seem to believe they are immune to Ontario's health and safety standards and requirements. But as an employer that typically contracts out some, or all, of the

required services for maintenance, security, groundskeeping, window washing, electrical, mechanical, HVAC etc., compliance to OH&S standards is not optional. An employer is defined as a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services)

Workplace health and safety standards require the condo corporation to pay attention to the work they control and contract out to others. In cases of retrofit work or projects, they may also be seen as the constructor unless they understand how these relationships work.

We've investigated very serious and fatal accidents involving a variety of condo settings. These unfortunate incidents involved everything from the emergency response (EMS including police) to the Ministry of Labour, Training and Skills Development (MOLTSD) inspectors and other officials, including coroners and media. Be aware that having well-planned systems in place becomes a key consideration in every accident-emergency response scenario. It also weighs on potential charges.

Perhaps the easiest way to understand every condo corporation's obligations is to understand the standards of what an Occupational Health & Safety Management System (OHSMS) looks like and how it works. As with all key systems, your OHSMS needs to be in writing. It should contain all of the required policies and procedures to meet the circumstances present at your condo and the standards within the applicable legislation. At the very least, an OHSMS must include a health and safety policy,

violence and harassment policy, the right to disconnect policy, EDI policies, and safe work procedures, to name a few.

Plan-Do-Check-Act

An iterative management method used to control and continually improve processes is sometimes referred to as Plan-Do-Check-Act. The first phase is the "Establish (Plan) Stage," where any condos create a lot of paperwork and policies to meet needs. The rush to develop a cannabis policy is a prime example. This first stage is where the condo corporations decide how to comply with federal and provincial OH&S expectations and standards. Remember, health and safety fall under both government agencies.

The next phase is typically the most challenging. It is the "Implementation (Do) Stage," wherein the policies and standards created are implemented, and is typically where most condos fall short.

The condo industry struggles with this phase on a routine basis. It simply involves the condo carrying out what they intend to do. It's the "talk-the-talk" and "walk-the-walk" phase of the health and safety system.

Some subcontractors working at condos also fall short of having the required health and safety systems in place to manage risk for themselves and their workers. Every condo corporation needs to clearly understand and remember that every worker arriving to work on their premises is their responsibility.

These responsibilities are addressed in health and safety laws and occupiers' liability laws. OH&S law states that; "the employer shall take every precaution reasonable in the circumstances for the protection of a worker; while occupiers liability law states; An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises."

The third phase of the OHSMS is the "Monitoring (Check) Stage." You must monitor the program, including your policies and procedures, to ensure that they are actually working. If the program is not working as intended, it needs to be changed or modified to better address the needs and comply with the established standards of care. This also tells you that




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your OHSMS is a living, breathing system - not intended to be stagnant. They need to be active systems that address the circumstances present on a daily basis.

create a significant culture of compliance, reduce accidents and encourage success. Having viewed very successful programs, we know it works.

ensuring all required control measures are firmly in place for the protection of the workforce and the workplace.

Reducing risk and protecting people is about setting your own path to safety and being accountable for your success. It begins with your team's absolute commitment to safety as your company's core value. Setting safety as a priority is always the right choice.

And remember, it's the law, and YOU get to choose your path. ■

Now more than ever, condo corporations are at a heightened risk of legal exposure, and the consequences of failure can be very substantial.

The final stage of the process is the "Control (Act) Stage." Every successful system needs to have controls in place, such as ensuring status reviews and updates are regularly scheduled events. The control phase pays close attention to compliance rates and anticipates future needs. It relies heavily on the results from monitoring the success and challenges encountered during the prior three phases.

Your OHSMS is the roadmap to success in health and safety. If it is done correctly, it will empower people,

We also know that one of the challenges for the condo world is to train property managers and mentor subcontractors (on-site) to embrace workplace health and safety compliance and success.

Now more than ever, condo corporations are at a heightened risk of legal exposure, and the consequences of failure can be very substantial. However, there is a lot of room for property management companies/property managers to be more diligent in determining hazards and, more importantly,

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