

April 18, 2011

Shafiq Qadri
Chair
Standing Committee on Social Policy
99 Wellesley Street West
Whitney Block
Toronto, Ontario M7A 1A2

RE: Bill 160, Occupational Health and Safety Statute Law Amendment Act, 2011

Dear Mr. Qadri:

The Ontario Chamber of Commerce (OCC) is a federation of 160 local chambers of commerce and boards of trade in the Province of Ontario, representing 60,000 businesses of all sizes, in all economic sectors covering every area of the province. The OCC's mandate is to advocate strong and effective policies on issues that affect its membership throughout Ontario's business community.

Employers have long recognized that prevention is integral to the societal goal of a safe and productive workforce. The transference of the Occupational Health and Safety (OH&S) System's prevention function out of the WSIB and into an independent Prevention Council has the potential to assist employers in their efforts to reduce workplace accidents and injuries. The business community supports several premises of Bill 160, particularly:

- Reducing confusion and eliminating inefficiencies by moving all associations into one place
- Increasing access to information to assist employers with health and safety improvements
- Identifying the need for transparency and accountability

To the extent that the new Prevention Authority furthers these objectives, it will lead to a more streamlined and effective OH&S System. Increasing access to information will be particularly important given the recent consolidation and proposed restructuring of Health and Safety Association (HAS) activities under Bill 160. With a reduction in the specialized sectoral expertise of the HSAs, employers will be increasingly reliant on readily available information on the statistical causes of accidents and injuries in order to improve their health and safety performance.

Transparency and accountability are also critically important to an improved OH&S system. Within the current system, strategic decisions are routinely made without structured or broad-based private sector participation. This has stymied the ability of employers to play an active role in the management of workplace health and safety, and caused much frustration among the business community. In its recent submission to the Chair of the WSIB Funding Review, the OCC outlined the need for improvements to the current decision-making process, including more rigorous selection criteria for the President and Chair of the Workplace Safety and Insurance Board (WSIB), clearer performance agreements, and formalized channels for private sector input.

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Likewise, in order to achieve the goals of greater accountability and transparency, the new Prevention Council must be representative and inclusive in its make up, and must have statutory authority to hold the Chief Prevention Officer (CPO) and Minister of Labour to account. As it stands, Bill 160 does not clearly articulate how representation on the multi-stakeholder Prevention Council is to be divided, and limits the role of the Council to an advisory capacity. In order to ensure that Bill 160 sets out clear lines of accountability, the OCC recommends that the Ministry of Labour:

- Clearly articulate the powers of the Chief Prevention Officer in the Bill so he/she has clear accountability and authority to effectively lead and manage the prevention system.
- Include a statement similar to Section 5 of the Clean Drinking Water Act to require the Minister to consider recommendations of the Chief Prevention Officer and the Prevention Council in exercising the Minister's powers and duties.
- Require that the Prevention Council be composed of an equal number of members representing employers and trade unions and restricting the number of other members appointed to the Prevention Council to no more than one-third (1/3) of the Council's membership.
- Explain how the duty of the Prevention Council and Chief Prevention Officer to engage in meaningful consultation and engagement as conceived in the Dean Panel Report will be fulfilled in practice through inclusion of a preamble in Bill 160 which clarifies the meaning of "consultation" as specified in Bill 160.
- Ensure greater consistency and compliance of inspectors with prevention policies developed by the Prevention Council and the Chief Prevention Officer through retaining Section 3 of the Bill which states:
 - A Director may establish written policies respecting the interpretation, administration, and enforcement of this act; and
 - An inspector shall follow any policies established by a Director under subsection (3)

In moving ahead with the new prevention authority, it is critical that the Ministry of Labour (MOL) take into account the sustainability of the OH&S system as a whole. If Bill 160 is passed as written, the Prevention Council's budget will be paid for through WSIB employer premiums. However, the WSIB is currently struggling to fund the broad range of programs – many of which more closely resemble social than insurance programs – which have been haphazardly added to its mandate. As the Chair of the WSIB noted in a 2010 report, "Services paid for by today's WSIB – including inspection, prevention programs, rehabilitation programs, funding for safety associations and incentives to the private sector to name a few – go far beyond the simple compensation requirements of Meredith's original system yet the base funding model remains unchanged"¹ With an Unfunded Liability (UFL) of \$13 billion, there is a need to replace the existing funding and delivery model in order to ensure the sustainability of the OH&S system.

¹ Steven W. Mahoney, Report on Stakeholder Consultations, 2010. (Toronto: Workplace Safety and Insurance Board), p. 5.

The challenges facing the WSIB mirror those facing the provincial health care system as a whole. With health care consuming approximately 43 cents of every dollar collected by the government, and spending on the rise, it is clear that innovation and new approaches are key to the future of the system.

An opportunity exists in Bill 160 to stimulate innovation through linking the activities of the new Prevention Council to the mandates of allied Ministries and organizations in the health care sector. For example, the Ministry of Labour could link with the Ministry of Health and Long-Term Care and the Ministry of Health Promotion and Sport in order to take a comprehensive approach to MOL's duty to educate employers and workers about and promote workplace health and safety. Evidence suggests that a comprehensive approach maximizes resources through the elimination of wasteful duplication and overlap, economies of scale, and the replication of successful models. An integrated approach also leads to improved quality of outcomes through identifying and closing the gaps between existing programs/activities and best practices.

To ensure that prevention activities remain part of the long-term strategy for workplace health and safety, it is critical that the government look for new strategies to finance and deliver health and safety programs. The OCC feels that the recommendations made herein would facilitate an innovative approach which would position the OH&S system to meet the challenges of the future.

Thank you for taking the time to review our concerns. If you have any questions or comments, you may direct your staff to contact Kelly Pritchard, Policy Analyst at (416)-482-5222, extension 246, or kellypritchard@occ.on.ca.

Yours sincerely,



Len Crispino
President & CEO

cc: The Hon. Charles Sousa, Minister of Labour
The Hon. Dalton McGuinty, Premier of Ontario
David Marshall, President, Workplace Safety & Insurance Board
The Hon. Steve Mahoney, Chair, Workplace Safety and Insurance Board
Randy Hillier, MPP, PC Critic, Labour
Peter Kormos, MPP, NDP Critic, Labour
Paul Miller, MPP, NDP Critic, WSIB

Tim Hudak, MPP, PC Leader, Leader of the Official Opposition
Andrea Horwath, MPP, NDP Leader
Paavo Kivisto, Chair, Interim Prevention Council
OCC members