

To: Local Coordinators, Bargaining Unit Presidents, Health and Safety Network Leads, and Joint Health and Safety Committee Members from the Executive Booklet

From: Andy Summers, RN, Vice-President Region 3, Occupational Health and Safety Portfolio



Date: May 31, 2013

Re: Legally Required Notice to Joint Health and Safety Committee/Union of Workplace Injury/Illness/Project site accident etc.

In 2009, a hospital employer was fined \$10,000 for failing to notify the Ministry of Labour within four days of being advised by, or on behalf of, a worker that the worker had an occupational illness (scabies). Read more: http://www.ona.org/news_details.html?article_id=214)

For years, ONA has asked members at the ONA ACC Health and Safety workshops whether Joint Health and Safety Committees (JHSC) and the union receive accident and illness reports within four days of every workplace injury and illness. Typically employers are only providing injury *summaries* to JHSCs instead of the full reports required to be sent to the JHSC and union within four days (Section 52 (1) and (2) of the *Occupational Health and Safety Act*).

Reportedly JHSCs and ONA are also not receiving required information about critical and fatal workplace injuries/illnesses. Even when the employer does furnish a summary or other report, members tell us the employer is not providing the legally required details (as per section 5 of the *Regulation for Health Care and Residential Facilities*). It is ONA's position that community care workplaces must also report the prescribed information as found in Section 5 of the industrial regulations.

At the May 23, 2013 Regions 1 and 3 ACC health and safety training, participants requested wording to send to employers' health and safety designates/CEOs/administrators to secure the requisite workplace illness/injury information.

Consider using the wording below to request that your employer (copy your Bargaining Unit President and the JHSC) furnish the information. If the employer fails to provide all of the information within the time limit of four days (48 hours for critical or fatal injury), then consider calling in the Ministry of Labour. (For legislation and the prescribed information relevant to your employer, see attached).

Suggested wording:

According to Section 52 of the *Occupational Health and Safety Act* (OHSA), the employer has a duty to provide accident notification to the Joint Health and Safety Committee (JHSC) and the Union within four days of any accident, explosion, fire or incident of workplace violence at a workplace, where the person is disabled from performing his or her usual work or who requires medical attention.

This written notice must be provided within four days of the occurrence and contain the prescribed information found in Section 5 of the health care regulation.

This includes the name and address of the person who was injured, steps taken to prevent a recurrence, witnesses, etc. In other words, all of the information must be provided within four days to the entire JHSC and to the trade union.

We have been advised by our Union to give you 48 hours to respond to this email and if your response does not indicate that you will comply with section 51, 52 (1) and (2) and state how this will be done, we will call the Ministry of Labour (MOL).

Our Union has also advised that after receiving confirmation that you will comply, we will give you two weeks to *actually* comply or we will call in the Ministry of Labour.

For your reference, please refer to a 2007 memo from the Ministry of Labour's Dr. Genesove, which confirms your obligation to provide the requested information. (click on ONA's "Occupational Health and Safety: A Guide for ONA Members" page 49/50 http://www.ona.org/documents/File/guides/ONA_GuideOccHealthSafety_201210.pdf).

Also click on the following Ministry of Labour orders to other health care employers who refused to provide this information to the JHSC:

www.ona.org/documents/File/healthandsafety/mol/ONA_IntRespSyst_LawNotice_20121211.pdf

www.ona.org/documents/File/healthandsafety/mol/ONA_MoL_Violence_20121217.pdf

For five years, ONA has also been suggesting that this information be provided:

www.ona.org/documents/File/healthandsafety/ONA_Guidance_ReportingInjuries.pdf

If you have any questions, please contact your Labour Relations Officer.

NOTICE PROVISIONS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT AND PRESCRIBED INFORMATION FOR COMMUNITY CARE WORKPLACES

Notice of death or injury

51. (1) Where a person is killed or critically injured from any cause at a workplace, the constructor, if any, and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations prescribe. R.S.O. 1990, c. O.1, s. 51 (1); 2011, c. 1, Sched. 7, s. 2 (7).

Preservation of wreckage

(2) Where a person is killed or is critically injured at a workplace, no person shall, except for the purpose of,

- (a) saving life or relieving human suffering;
- (b) maintaining an essential public utility service or a public transportation system;
or
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. R.S.O. 1990, c. O.1, s. 51 (2).

Notice of accident, explosion, fire or violence causing injury

52. (1) If a person is disabled from performing his or her usual work or requires medical attention because of an accident, explosion, fire or incident of workplace violence at a workplace, but no person dies or is critically injured because of that occurrence, the employer shall, within four days of the occurrence, give written notice of the occurrence containing the prescribed information and particulars to the following:

1. The committee, the health and safety representative and the trade union, if any.
2. The Director, if an inspector requires notification of the Director. 2001, c. 9, Sched. I, s. 3 (12); 2009, c. 23, s. 5.

Notice of occupational illness

(2) If an employer is advised by or on behalf of a worker that the worker has an occupational illness or that a claim in respect of an occupational illness has been filed with the Workplace Safety and Insurance Board by or on behalf of the worker, the employer shall give notice in writing, within four days of being so advised, to a Director,

to the committee or a health and safety representative and to the trade union, if any, containing such information and particulars as are prescribed. R.S.O. 1990, c. O.1, s. 52 (2); 1997, c. 16, s. 2 (12).

Idem

(3) Subsection (2) applies with all necessary modifications if an employer is advised by or on behalf of a former worker that the worker has or had an occupational illness or that a claim in respect of an occupational illness has been filed with the Workplace Safety and Insurance Board by or on behalf of the worker. R.S.O. 1990, c. O.1, s. 52 (3); 1997, c. 16, s. 2 (13).

Prescribed Information that the employer is to provide:

**R.R.O. 1990, REGULATION 851
INDUSTRIAL ESTABLISHMENTS**

NOTICE OF ACCIDENTS

5. (1) The written report required by section 51 of the Act shall include,

- (a) the name and address of the constructor and the employer;
- (b) the nature and the circumstances of the occurrence and of the bodily injury sustained;
- (c) a description of the machinery or equipment involved;
- (d) the time and place of the occurrence;
- (e) the name and address of the person who was killed or critically injured;
- (f) the names and addresses of all witnesses to the occurrence; and
- (g) the name and address of the physician or surgeon, if any, by whom the person was or is being attended for the injury. R.R.O. 1990, Reg. 851, s. 5 (1); O. Reg. 420/10, s. 2 (1).

(2) For the purposes of section 52 of the Act, notice of,

- (a) an accident, explosion or fire which disables a worker from performing his or her usual work; or
- (b) an occupational illness,

shall include,

- (c) the name, address and type of business of the employer;
- (d) the nature and the circumstances of the occurrence and of the bodily injury or illness sustained;

- (e) a description of the machinery or equipment involved;
- (f) the time and place of the occurrence;
- (g) the name and address of the person suffering the injury or illness;
- (h) the names and addresses of all witnesses to the occurrence;
- (i) the name and address of the physician or surgeon, if any, by whom the person was or is being attended for the injury or illness; and
- (j) the steps taken to prevent a recurrence or further illness. R.R.O. 1990, Reg. 851, s. 5 (2); O. Reg. 420/10, s. 2 (2, 3).

(3) A record of an accident, explosion or fire causing injury requiring medical attention but not disabling a worker from performing his or her usual work shall be kept in the permanent records of the employer and include particulars of,

- (a) the nature and circumstances of the occurrence and of the injury sustained;
- (b) the time and place of the occurrence; and
- (c) the name and address of the injured person. R.R.O. 1990, Reg. 851, s. 5 (3); O. Reg. 420/10, s. 2 (4).

(4) A record kept as prescribed by subsection (3) for the inspection of an inspector shall be notice to the Director. R.R.O. 1990, Reg. 851, s. 5 (4).

**NOTICE PROVISIONS UNDER THE OCCUPATIONAL HEALTH AND
SAFETY ACT AND PRESCRIBED INFORMATION THAT EMPLOYERS
COVERED BY HEALTH CARE AND RESIDENTIAL FACILITIES (E.G.
ACUTE CARE, LTC HOMES) MUST PROVIDE TO THE JHSC, HEALTH AND
SAFETY REPRESENTATIVE (IN WORKPLACES WITH 5 – 19 WORKERS)
AND TO THE TRADE UNION**

Notice of death or injury

51. (1) Where a person is killed or critically injured from any cause at a workplace, the constructor, if any, and the employer shall notify an inspector, and the committee, health and safety representative and trade union, if any, immediately of the occurrence by telephone or other direct means and the employer shall, within forty-eight hours after the occurrence, send to a Director a written report of the circumstances of the occurrence containing such information and particulars as the regulations prescribe. R.S.O. 1990, c. O.1, s. 51 (1); 2011, c. 1, Sched. 7, s. 2 (7).

Preservation of wreckage

(2) Where a person is killed or is critically injured at a workplace, no person shall, except for the purpose of,

- (a) saving life or relieving human suffering;
- (b) maintaining an essential public utility service or a public transportation system;
or
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. R.S.O. 1990, c. O.1, s. 51 (2).

Notice of accident, explosion, fire or violence causing injury

52. (1) If a person is disabled from performing his or her usual work or requires medical attention because of an accident, explosion, fire or incident of workplace violence at a workplace, but no person dies or is critically injured because of that occurrence, the employer shall, within four days of the occurrence, give written notice of the occurrence containing the prescribed information and particulars to the following:

1. The committee, the health and safety representative and the trade union, if any.
2. The Director, if an inspector requires notification of the Director. 2001, c. 9, Sched. I, s. 3 (12); 2009, c. 23, s. 5.

Notice of occupational illness

(2) If an employer is advised by or on behalf of a worker that the worker has an occupational illness or that a claim in respect of an occupational illness has been filed with the Workplace Safety and Insurance Board by or on behalf of the worker, the

employer shall give notice in writing, within four days of being so advised, to a Director, to the committee or a health and safety representative and to the trade union, if any, containing such information and particulars as are prescribed. R.S.O. 1990, c. O.1, s. 52 (2); 1997, c. 16, s. 2 (12).

Idem

(3) Subsection (2) applies with all necessary modifications if an employer is advised by or on behalf of a former worker that the worker has or had an occupational illness or that a claim in respect of an occupational illness has been filed with the Workplace Safety and Insurance Board by or on behalf of the worker. R.S.O. 1990, c. O.1, s. 52 (3); 1997, c. 16, s. 2 (13).

Prescribed Information that the employer is to provide:

ONTARIO REGULATION 67/93

HEALTH CARE AND RESIDENTIAL FACILITIES

NOTICE OF ACCIDENTS

5. (1) If a worker is killed or critically injured at a facility, the written report required by subsection 51 (1) of the Act shall include,

- (a) the name and address of the employer;
- (b) the nature and circumstances of the occurrence and of the bodily injury sustained;
- (c) a description of the machinery or thing involved, if any;
- (d) the time and place of the occurrence;
- (e) the name and address of the person who was critically injured or killed;
- (f) the names and addresses of all witnesses to the occurrence;
- (g) the name and address of the physician or surgeon, if any, who is attending to or attended to the injured or deceased person; and
- (h) the steps taken to prevent a recurrence. O. Reg. 67/93, s. 5 (1).

(2) If an accident, explosion or fire causes injury to a worker at a facility that disables the worker from performing his or her usual work, the written notice required by subsection 52 (1) of the Act shall include,

- (a) the name and address of the employer;
- (b) the nature and circumstances of the occurrence and of the bodily injury sustained by the worker;
- (c) a description of the machinery or thing involved, if any;

- (d) the time and place of the occurrence;
- (e) the name and address of the worker who was injured;
- (f) the names and addresses of all witnesses to the occurrence;
- (g) the name and address of the physician or surgeon, if any, who is attending to or attended to the worker for the injury; and
- (h) the steps taken to prevent a recurrence. O. Reg. 67/93, s. 5 (2).

(3) If an accident, explosion or fire at a facility causes injury requiring medical attention but does not disable a worker from performing his or her usual work, the employer shall keep a record of that occurrence and the record shall include,

- (a) the nature and circumstances of the occurrence and of the injury sustained;
- (b) the time and place of the occurrence;
- (c) the name and address of the injured worker; and
- (d) the steps taken to prevent a recurrence. O. Reg. 67/93, s. 5 (3).

(4) The record kept by the employer under subsection (3) for inspection by an inspector shall be notice to a Director. O. Reg. 67/93, s. 5 (4).

(5) The written notice required under subsection 52 (2) of the Act if an employer is advised that a worker has an occupational illness or that a claim in respect of an occupational illness has been filed with the Workplace Safety and Insurance Board shall include,

- (a) the name and address of the employer;
- (b) the nature of the occupational illness and the circumstances which gave rise to such illness;
- (c) a description of the cause or the suspected cause of the occupational illness;
- (d) the period when the worker was affected;
- (e) the name and address of the worker who is suffering from the occupational illness;
- (f) the name and address of the physician, if any, who is attending to or attended to the worker for the illness; and
- (g) the steps taken to prevent further illness. O. Reg. 67/93, s. 5 (5); O. Reg. 25/09, s. 2.

6. If an occurrence involves the collapse or failure of a temporary or permanent structure that was designed by a professional engineer or architect, the employer shall, within fourteen days after the occurrence, supplement the notice or report required by section 51 or 52 of the Act with the written opinion of a professional engineer as to the cause of the collapse or failure. O. Reg. 67/93, s. 6.

