



Suite 1600
1 First Canadian Place
100 King Street West
Toronto, Ontario
Canada M5X 1G5
Telephone (416) 862-7525
Facsimile (416) 862-7661
www.gowlings.com

February 3, 2010

VIA EMAIL

Norm Keith
Direct (416) 862-5699
Direct Fax (416) 863-3530
norm.keith@gowlings.com
File No. T88002

Ms. Cristina Campanelli, Project Manager
Prevention Division, 11th Floor
Workplace Safety & Insurance Board
200 Front Street West
Toronto, Ontario
M5V 3J1

Dear Ms. Campanelli:

Re: Joint Health and Safety Committee Consultation

Please accept these as our submissions with respect to the WSIB's Consultation Paper on the Joint Health and Safety Committee Certification Process. Gowlings is a long-standing approved provider of Part One Certification Training and we are pleased to participate in this process.

1. Course Duration

- a. We agree that standardizing course duration is a good way to ensure adequate time to properly cover the course content through both instruction and interactive activities. We recommend updating the Standards to provide more direction on the degree of comprehensiveness required for each session in order to give providers more direction. One of the difficulties with changing the duration of the course materials is the differing levels of experience/background of course participants. The minimum duration of the course must be long enough to cover the material effectively without rushing those who take longer to understand it, while not disrespecting those participants who pick up the material more quickly.
- b. In our considerable experience, a two-day course provides enough time to effectively cover the material through both instruction and interactive activities. However, should the WSIB determine that the minimum duration must be longer, we recommend that the course duration be no longer than 3 days.

2. Interactivity

- a. As stated above, in our experience, a two-day course has provided sufficient time for group discussions, group interactive work, video and class instruction and we agree that a diverse number of interactive activities are required in order to comply with adult learning principles. While it might be helpful for the WSIB to suggest areas or modules where interactive activities could be used, it runs the risk of being overly prescriptive and removing the individuality put into each course by the provider.

3. Course Content

- a. We would agree that the learning objectives set out in the current program are comprehensive and adequately prepare prospective certified members for their responsibilities on the committee. While it might be helpful to include some information in the course content about interpersonal skills, leadership, negotiation and conflict resolution, the WSIB must recognize that not all providers are competent to deliver such information in a detailed or expanded context. Further, as individuals handle conflict differently, it is unclear as to whether JHSC Part One Certification Training is the forum to teach participants about conflict resolution. Perhaps it would be better to emphasize the role of the Committee in a non-adversarial context. We would suggest that emphasizing the role of the committee as an integral part of the internal responsibility system would be a better way to go.
- b. As stated above, the learning objectives as set out for the Part One Certification Training course are comprehensive as they stand.

4. Workplace Hazard Assessment Process – Resources

- a. We agree that a hazard assessment tool would be helpful to provide to participants as part of the Part One Certification Training course. Many participants do not fully understand the hazard assessment process. Many participants from smaller employers are asked to complete the hazard assessment on behalf of the employer. Still more small employers are not aware of the need for such an assessment at all. Therefore, a tool to assist with the process would be helpful.
- b. A preset list of “significant hazards” would be helpful for employers to be able to identify training requirements for the Part Two Workplace Specific Hazard Training. Employers could use the list to check off those hazards that apply to them. The list should be associated with recommended training (either sector-specific or training modules).

5. Workplace Hazard Assessment Process – Validation

- a. In order to validate the hazard assessment process, the WSIB should require proof that the hazard assessment has been completed. This could be in the form of signed documentation by both the committee and the employer certifying that the hazard assessment has been completed.
- b. If there is a disagreement between the committee and the employer as to what constitutes a significant hazard within the workplace, the committee and/or the employer should be able to liaise with the appropriate health and safety association in order to validate the hazard assessment.

6. Sector-Specific Program

- a. Sector-specific programs would be helpful, in most cases, in helping employers identify appropriate training for their committee members. Sector-specific programs could be used in conjunction with the completed hazard assessment to determine what training is required. Employers who have hazards outside of the sector-specific programs would be in the same situations they are now, and would require their members to take additional modules so that they can properly identify, assess and make recommendations to control all significant hazards within their workplace. The sector-specific programs would satisfy the needs of a large number of employers (i.e. construction, office). The notion that some sector-specific

programs might provide *too much* training is not generally an issue as participants can use the material that is relevant to their workplaces.

7. Combined Certification Training

- a. Combining Part One and Part Two Certification Training would work well for some employers and not others. At this time, some employers send some committee members for both Part One and II training, while other members of their committee only receive Part One. We feel that it is incumbent upon the training providers to make the certification process clear to participants, so that they understand that both Part One and II training is required before certification is obtained. While a combined program run concurrently would decrease the lag time between Part One and Part Two training, to run those programs concurrently would be too great a burden for many employers who cannot lose their staff for the duration of the training. What might work is requiring participants to register for Part One and Part Two training at the same time. The programs could be run by the same provider but at different times. This type of registration should be an option for participants, much like it is now, but should not replace the current program, especially if the duration of Part One training is going to be lengthened by any significant degree.

8. Training on Top 4 Hazards

- a. We agree that training on the top 4 hazards as identified by the WSIB should be made a mandatory part of the Certification training program.
- b. Training on the top 4 hazards should be reviewed as part of the Part One Basic Certification Training program in order to raise awareness of these issues. Because Part One Certification applies to all industries, the top 4 hazards should apply to most workplaces, at least to some degree. Training on the top 4 hazards should also be included in the Part Two program in order to ensure that participants can adequately identify, assess and make appropriate recommendations for control of those hazards, as applicable.

9. Part Two- Workplace-Specific Hazard Training – Other Suggestions

- a. We agree with the recommendations put forward by the Certification Review Committee with respect to Part Two – Workplace Specific hazard training with respect to:
 - i. enhancing standards for delivery re: minimum class duration based on sector;
 - ii. designating mandatory training topics such as hazard recognition and control;
 - iii. including the top 4 hazards as mandatory course content; and
 - iv. accrediting training providers for Part Two training in order to ensure consistency of delivery.

10. Expiry & Renewal of Certification

- a. We agree that there should be an expiration period for Certification status. In our experience, we have had participants attend for training and advise us that they had been certified 10-15 years ago. They could no longer remember any of the information in the training. We

recommend a 3 year expiry on Certification training with an opportunity for renewal through refresher training.

- b. We recommend that refresher training be approximately ½ day to 1 full day in duration. Topics that should be covered during the refresher should include legal roles and responsibilities of the workplace parties, functions and powers of the committee, the work refusal and work stoppage processes, and an overview of hazard identification, assessment and control.
- c. We do not advocate a maintenance system for certified members. Membership on the JHSC is voluntary, and many employers have expressed difficulties in recruiting members for committees. Such a system may place too much burden on the certified member to maintain their status.

11. Program Delivery

- a. We are strong supporters of classroom delivery as the primary mode of providing the JHSC training. This method allows the highest level of learning through group participation and direct question and answer availability. However, the strategies listed in the consultation paper are appropriate for ensuring adequate participation from those in non-classroom settings.

12. Ongoing Evaluation

- a. Ongoing evaluation should be utilized throughout the course but should remain informal; especially noting that there is a standardized examination at the end of Part One training. The techniques that are listed in the Consultation paper, including discussion, completion of review questions after each module, assignments, mini quizzes, activities and participation in class are currently being used by instructors to monitor participation levels and effectiveness of knowledge transfer.
- b. The WSIB should require providers to indicate what types of ongoing evaluation techniques they are using in order to ensure appropriate knowledge transfer. Such ongoing evaluation should be included in the Standards for training.

13. Final Evaluation – Validity of WSIB Standard Test

- a. There should be an evaluation at the end of certification training to demonstrate knowledge transfer. The current examination format covers all of the major topics reviewed in the training materials. Multiple choice and true/false examinations are good methods of testing people with different learning styles and varying levels of language skills. That format also allows for ease of marking. It is unclear as to whether the test is appropriate for persons with disabilities.
- b. The WSIB standard test is a valid assessment tool. However the questions should be reviewed to ensure that they are not misleading.

14. Final Evaluation – Test Feedback

- a. The suggestion to have the instructor score the examination would be helpful for students to receive immediate feedback on their examination and to know whether they had been

successful prior to leaving the course. If the WSIB continues to utilize the multiple choice and true/false format, the scoring would not be difficult for the instructor. The instructor/training provider can then provide the WSIB with a report of who the participants were and their evaluation score.

- b. The opportunity to provide immediate feedback to the students on any information they may have missed/misunderstood is very valuable. Further, the delay in writing the examination and receiving their score is one of the leading concerns from participants, especially those who want to take the Part Two training shortly after Part One. Allowing the instructors to mark the examination would address both of those issues.

15. Final Evaluation – Who Does It?

- a. The certification training program should contain a formal examination element at the end of Part One – Basic Certification Training. As discussed earlier, the examination helps confirm knowledge transfer.
- b. The WSIB should be responsible for developing the final evaluation. Despite the discussion of sector-specific programs, the Part One – Basic Certification Training is sector-neutral and the same information is provided to all participants. As stated in the Consultation Paper, allowing training providers to develop their own tests would introduce variability into the evaluation process. We would recommend keeping the sector-specific nature of the program to the Part Two – Workplace Specific Hazard Training.

16. Instructor Competency

- a. It would be beneficial to the Certification Training program overall to require instructors to meet minimum competencies. By doing so, the WSIB can ensure that a minimum standard for training delivery is being met. Given the different learning styles and varying sector backgrounds of course participants, it is important to ensure that instructors have a good cross-section of knowledge and training experience to call on in order to enhance the training experience.
- b. The instructor competencies as set out in the Consultation Paper are comprehensive in terms of suggestions. We would agree that some of the more important to be considered include:
 - i. Work experience in occupational health and safety and/or a particular sector
 - ii. Work experience as an instructor/trainer
 - iii. Education in adult education principles
 - iv. Education in occupational health and safety (or associated designation, CHSC, CRSP)
 - v. A system for continuous improvement, such as keeping up to date with developments in health and safety and adult education principles (health and safety designations such as the CRSP and CHSC have continuous improvement components built into them)
 - vi. Experience in delivering Certification Training programs

- vii. Completion of a “train-the-trainer” course
- viii. Licensed Paralegal with the Law Society of Upper Canada

17. Training Provider Expectations

- a. We agree that there should be a requirement that approved training providers deliver a minimum of two sessions per year. This will ensure that the providers keep their programs current in relation to legal requirements, and will help ensure consistency of delivery through practice.
- b. In order to ensure quality assurance and fairly standardized delivery, the Standards should ensure providers to include timetables and instructors notes within their presentations. These should be used as guidelines as instructors will add their individual flair to the presentations through delivery.
 - i. The WSIB should conduct either spot-checks and/or regular audits of training providers to ensure that the material is being covered effectively and in a manner consistent with adult learning principles.
 - ii. Training providers should have a quality assurance program in place to review and address any performance issues. These may be addressed through a review of course evaluation forms completed by participants.
 - iii. The WSIB should require providers to submit an annual report on their programs to the WSIB. This report should include how many training sessions they ran throughout the year and the number of participants trained. The report could also require providers to indicate what initiatives they have undertaken to ensure the ongoing competency of their instructors.

18. General Questions

- a. Certified members would benefit from a support mechanism and standardized access to resources. This could be achieved through augmenting of the WSIB website to include links for resource partners such as the CCOHS and/or the MOL. Although there are a number of resources available to certified members, many do not have exposure to such resources on a regular basis. By standardizing resources and making them easier to navigate, certified members may be more likely to access them to find the information they need.

19. General Suggestions

- a. Although the current Certification Training Program requires certified members to take both Part One and Part Two training, it might be beneficial to require all JHSC members and/or Health and Safety Representatives to complete Part One training. By making this a requirement, it would ensure that all JHSC members receive basic information about the internal responsibility system, the 3 rights of workers, the *Occupational Health and Safety Act*, the work refusal process and hazard identification, assessment and control. There is currently no requirement for Health and Safety Representatives to attend any training, although they perform many of the functions of an entire JHSC.

- b. In addition to the Hazard Assessment Tool proposed in the Consultation Paper, perhaps the Standards should require the Certification Training to include a sample Workplace Inspection Checklist or Template to be provided to participants. Perhaps the WSIB could partner with the Canadian Centre for Occupational Health and Safety (“CCOHS”) to develop a template that would serve as a starting point for many workplaces. Training providers would be required to advise participants of the need to customize the checklist for their own workplace and to add and/or remove information as required.

Yours very truly,

GOWLING LAFLEUR HENDERSON LLP

Norm Keith

NK:ls

TOR_LAW\7291816\1