

## Due diligence for employers and employees

By Carola Hicks

Universally, health and safety legislation is intended to ensure that employers and employees act responsibly regarding health and safety within the workplace. The most powerful legal protection an Occupational Health and Safety (OHS) program can have is to be able to prove due diligence.

Due diligence means exercising care and taking precautions with workers' health and safety. It also means identifying and minimizing health and safety risks to workers through proactive measures.

Business owners and employers must set the direction through policies and procedures, and must provide the leadership and resources to implement an OHS program that demonstrates a reasonable standard of care and protects workers from work-related injuries, illnesses and fatalities.

Workplace Hazardous Materials Information System (WHMIS) training is part of this mandate and should be provided annually to all employees.

The Ministry of Labour, through the *Occupational Health and Safety Act* (OHSA), sets minimum requirements for all workplaces whether or not they pay premiums to the Workplace Safety and Insurance Board (WSIB). Unfortunately some employers misinterpret this to mean that, because they are not required to pay WSIB premiums, they are exempt from Ministry of Labour legislation. This may be a cause for the confusion prevalent in dental offices.

By law, workplaces with six to 19 employees are required to have a health and safety representative. This individual represents the interests of workers and should be elected by the workers, not appointed by management. Workplaces with 20 or more workers are required to have a Joint Health and Safety Committee

(JHSC), comprising two WSIB certified members, one representing management and one representing the workers.

The *Occupational Health and Safety Act* gives every worker important rights.

***The right to know.*** You have the right to know the hazards in your job. Your employer or supervisor must tell you about anything that can hurt you in your job. Your employer must provide you with the information you need so that you can work safely.

***The right to participate.*** You have the right to take part in keeping your workplace healthy and safe. Depending on the size of the company, you can be a member of the JHSC or serve as a health and safety representative. You also have the right to participate in training and information sessions to help you do your job safely.

***The right to refuse unsafe work.*** If you believe your job is likely to endanger you, you have an obligation to report the unsafe situation to management. If the situation is not corrected and you continue to feel your health and safety is in danger, you have the right under the OHSA to refuse to perform the work without reprisal.

For a copy of the OHSA, go to [www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90o01\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o01_e.htm).

As much as employers have responsibilities to their workers, workers also have responsibilities to apply and use the resources and training their employers have provided. When both employers and employees take ownership of the principles of workplace health and safety, the internal responsibility system benefits everyone.