GOLDEN HORSESHOE
GENERAL CONTRACTORS ASSOCIATION

Submission to the Standing Committee on Social Policy to consider Bill 88, An Act to enact the Digital Platform Workers' Rights Act, 2022 and to amend various Acts

March 29, 2022

Ms. Natalia Kusendova, MPP
Chair, Standing Committee on Social Policy
99 Wellesley Street West, Room 1405
Whitney Block, Queen's Park
Toronto, ON M7A 1A2

Dear Ms. Kusendova:

On behalf of the Golden Horseshoe General Contractors' Association (GHGCA), I thank you for the opportunity to make a submission on *Bill 88, Working for Workers Act, 2022.*

We recognize and welcome the Minister's determination to further support Ontario workers first with the measures contained in Bill 27, and now with the measures introduced in Bill 88.

This submission will focus on our concern and response to Schedule 4, the *Occupational Health and Safety Act* amendments to require employers to provide naloxone kits and to comply with related requirements if the employer becomes aware, or ought 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.

As background, the Golden Horseshoe General Contractors' Association (GHGCA) represents unionized general contractor companies in the Institutional, Commercial, and Industrial (ICI) sector located in Hamilton, Brantford, Niagara, Kitchener-Waterloo, Cambridge, and Guelph. Representing mainly small to medium-sized general contractors, GHGCA is concerned with the ramifications Schedule 4 may pose if passed.

Opioid Overdoses as a Workplace Hazard

To begin, we want to highlight that the proposed amendments in Schedule 4 of Bill 88 apply to all relevant workplaces, with no distinction made regarding any particular industry. The government communications about this part of the legislation, however, speak to "high-risk workplaces" and even

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370 York Blvd., Suite 100
Hamilton, ON L8R 3L1
t: 905.902.9422
f: 905.390.3045
e: info@ghgca.ca

calls out "construction sites, bars and nightclubs" as examples of the high-risk workplaces to which this legislation pertains. Media coverage of this aspect of the legislation has consequently focused on these workplaces, rather than the general requirement this legislation establishes.

As construction employers, we are concerned by how this legislation is being framed. Based on the data we provide below, we do not believe construction sites should be viewed as "high-risk workplaces" and we are disappointed by the stigma this characterization is causing. With all of the commendable efforts this government has undertaken to break the stigma around the skilled trades and get more people into this sector, it would be a shame if this legislation introduces a new, unwarranted stigma to our workplaces that possibly drives some people away from the skilled trades as a career.

Beyond these communications concerns, we want to highlight how seriously our industry takes worker safety and some of the measures we regularly take to protect our workers. The entire ICI Construction sector follows the same safety practices to ensure workers come to work "fit for duty." This includes arriving to work free of any medical or non-medical impairments. GHGCA understands that there are growing concerns in the construction industry about substance abuse, including opioid addiction – a problem more so related to the fact that the prescription of opioids for musculoskeletal pain associated with incident pain management is heavily prescribed in Ontario's medical system, which often leads to longer-term opioid use. GHGCA members, however, have yet to experience issues related to opioids on-site at job locations.

According to the Ontario Construction Consortium (OCC) report The Other Pandemic – Opioid Crisis in Ontario, the construction industry workforce has been hit harder by this crisis than people employed in other competing sectors of the economy. They note that "1/3 deaths of employed people in Ontario" occurred in construction. However, as the figure requires further context of opioid deaths, only 10% were from employed people, meaning 3% of all overdose-related fatalities were actively working in the construction industry.

Since so few opioid overdose fatalities are associated with the construction industry (and even fewer happen at construction worksites), we believe the construction sector should stop being identified as a "high-risk workplace." We would like to work with the government to determine how we can overcome any stigma for the industry that has arisen from these communications.

Ultimately, though, we believe that mandating Naloxone kits in the workplace is an attempt to treat a symptom. Unless we address the cause – the over-prescribing of opioid painkillers – Naloxone kits at relevant workplaces will at best slightly lessen the impact of opioid addiction on society.

Severity of penalties and the impact on General Contactors

While we agree that all opioid related deaths are preventable and any number is too high, we feel that the penalties and fines applicable for convictions under the Act, which include fines as high as $1,500,000 for directors or officers of corporations and up to $500,000 in personal fines for other individuals, will ultimately work to hurt our sector and that the severity of these penalties is out of proportion to the actual risk to the workforce relative to workplace-related hazards. Not to mention, the potential jail sentence of up to 12 months that remains available for all individual defendants and can be imposed in addition to a fine is a measure that will ultimately work to re-stigmatize the sector and discourage individuals from working in a supervisor/ managerial role in order to avoid a risk that ultimately is out of their control.

All employers should have on-site appropriate tools to keep workers safe and healthy. That said, it is important to remember construction employers are not medical personnel. Standard operating procedures on construction sites is to call 9-1-1 in the event of an overdose, so that medical experts are able to assess how to properly treat the situation, rather than relying on someone with limited first aid training and/or knowledge to administer medical interventions that up to now has been mostly used by medical or other specifically trained personnel.

With the penalties contained in Bill 88, even conscientious employers face the potential of personal and corporate financial ruin. As such, we believe any penalties associated with the requirement to have Naloxone kits on-site at construction workplaces should be reduced to reflect the harm being reduced relative to other potential hazards in the construction workplace (and the measures being taken to contain those).

While we support the implementation of training and education surrounding the issue of naloxone and how it may affect our workers, we urge you to focus on addressing the root cause, including the over-prescription of opioids by the medical community for pain management and the lack of suitable alternatives. This would work to further support Ontario's labour force and protect construction workers.

Thank you for the opportunity to provide this feedback on Bill 88. We would be pleased to work with you and the Government of Ontario to improve these measures to improve safety at Ontario workplaces.

Sincerely,
GOLDEN HORSESHOE GENERAL CONTRACTORS ASSOCIATION

Ken Turner
President

cc: Members of the Standing Committee on Social Policy
Vanessa Kattar, Clerk, Standing Committee on Social Policy
Hon. Monte McNaughton, Minister of Labour, Training and Skills Development