



COAA Best Practice Conference

Fitness for Duty

and

Physical Demands Analysis (PDA)

Presenter:

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COAA PDA Project

“ Committee Members:

- . **Dave Hagen**, Chemco – COAA Safety Committee Rep.
- . **Joe McFayden**, CLRA – Committee Chair
- . **Scott Boyer**, CannAmm – Project Manager
- . **Brad Bent**, CLAC
- . **Larry Jones**, Ledcor
- . **Reg Sopka**, PCL
- . **Ryan Henry**, WCB/Millard Health

Agenda

- “ Physical Demands Analysis Project Overview & Update
- “ Key features of a defensible fitness for duty program
- “ Presentation of PDA repository and update on Leading Practices Guide

PDA Project Objective

- “ Develop Physical Demands Analysis (PDAs) for industrial construction occupations.
- “ To create a best practice for the industrial construction industry regarding worker placement decisions both before and after injury and reduce the risk of further injury in the cases of return to work or accommodation scenarios.

Impact of an Injury

- “ Injury due to overexertion: #1
- “ Incidence of repeat injury: 35%
- “ Average work days lost per claim: 23 days
- “ Average lost-time claim cost: \$87,500 (2014)

Impact of an Injury

Direct Costs

- “ Medical costs
- “ WCB premiums
- “ Safety investments

Indirect Costs

- “ HR/HSE administration costs
- “ Hiring & training replacement workers
- “ Production downtime
- “ Loss of products/services

PDA Project Update

- ✓ Assembled a tripartite committee
- ✓ Identify trades in industrial construction
- ✓ Contract the development of PDAs
- ✓ Research leading practices
- ✓ Identify participating sites/contractors – **On going**
- ✓ Develop PDAs – **On going**
- ✓ Create repository for documents
- ” Develop “how-to instructions” and best practices for repository users – **In Progress**

Current List of Trade PDAs

Rope Access Level 3	Journeyman Scaffolder	Journeyman Instrumentation Technician
Rope Access Level 1	1st Year Scaffolder	1st Year Instrumentation Technician
Journeyman Painter/Decorator	2nd Year Scaffolder	2nd Year Instrumentation Technician
3rd Year Painter/Decorator	3rd Year Scaffolder	4th Year Instrumentation Technician
Crane Operator Journeyman	Journeyman Electrician	Journeyman Millwright
Crane Operator Supervisor	1st Year Electrician	2nd Year Millwright
Journeyman Steamfitter/Pipefitter	2nd Year Electrician	3rd Year Millwright
1st Year Steamfitter/Pipefitter	3rd Year Electrician	Journeyman Crane Operator
2nd Year Steamfitter/Pipefitter	4th Year Electrician	1st Year Crane Operator
3rd Year Steamfitter/Pipefitter	Journeyman Welder	Journeyman Ironworker

Current List of Trade PDAs

Equipment Operator - Level 1	2nd Year Steamfitter/Pipefitter	Boomtruck Operator
General Labourer	3rd Year Steamfitter/Pipefitter	Warehouse Operator
Tool Crib Attendant	Journeyman Steamfitter/Pipefitter	2nd Year Electrician (Heat Trace Installer)
Journeyman Carpenter	Journeyman Welder	3rd Year Electrician (Heat Trace Installer)
3rd Year Warehouse Technician	1st Year Fireproofers	4th Year Electrician (Heat Trace Installer)
Journeyman Warehouse Technician	2nd Year Fireproofers	Journeyman Electrician (Heat Trace Installer)
Journeyman Heavy Duty Equipment Technician	3rd Year Fireproofers	2nd Year Instrumentation Technician
3rd Year Heavy Duty Equipment Technician	Journeyman Fireproofers	1st Year Instrumentation Technician
Journeyman Painter/Blaster	1st Year Insulator	3rd Year Instrumentation Technician
1st Year Steamfitter/Pipefitter	Journeyman Insulator	Journeyman Instrumentation Technician

Current List of Trade PDAs

Journeyman Welder	Journeyman Insulator	Water/Wastewater Treatment Plant Operator
Electrical Quality Assurance/ Quality Control	Journeyman Boilermaker Welder	Water/Wastewater Treatment Plant Lead Operator
1st Year Scaffolder	3rd Year Boilermaker	Water/Wastewater Treatment Plant Electrician
3rd Year Scaffolder	Journeyman Boilermaker (Field)	Laundry Manager/Assistant Manager
Journeyman Scaffolder	Journeyman Pipefitter (Shop)	Laundry Worker Coordinator
Journeyman Electrician	3rd Year Pipefitter Welder (Expediter)	Laundry Worker
Electrical Foreman	Journeyman Pipefitter (Field)	Laundry Light Maintenance Worker
3rd Year Instrumentation Technician	General Labourer (Clean-Up)	Laundry Driver
2nd Year Insulator	General Labourer (Spark Watch)	Laundry Electrician
3rd Year Insulator	General Labourer (Water Duty)	Laundry Mechanical

Current List of Trade PDAs

IT Supervisor	Lodge Mechanical	2nd Year Apprentice Scaffolder
IT Maintenance Technician	Lodge Plumber	3rd Year Apprentice Electrician
HVAC (Hydrovac) Operator	Lodge Gas Fitter	3rd Year Apprentice Pipefitter
HVAC (Hydrovac) Swamper	Maintenance Foreman	3rd Year Apprentice Scaffolder
Lodge Carpenter	Laborer	3rd Year Apprentice Welder
Janitor	HVAC (Heating, Ventilation, Air-conditioning) Technician	4th Year Apprentice Electrician
Baker	1st Year Apprentice Ironworker	General Labourer
Camp Attendant	1st Year Apprentice Pipefitter	Heavy Equipment Operator (Zoom Boom)
Chef	2nd Year Apprentice Electrician	Journeyman Crane Operator
Lodge Electrician	2nd Year Apprentice Pipefitter	Journeyman Electrician
Journeyman Ironworker	Journeyman Scaffolder	Tool Crib Attendant
Journeyman Pipefitter	Pipefitter Welder Journeyman	Warehouse / Metal Trade Production Worker

Key Features of a Defensible Fitness for Duty Program

- “ Major issues around fitness testing
 - . Human Rights Considerations
 - . Privacy Laws
- ” Best Practices – Fitness to Work Checklist

What is Fitness Testing

- “ Fitness testing may include questionnaires, physical and medical tests to determine whether workers have the physical capabilities to perform the duties associated with their positions without undue risk of injury to the worker or to others. Fitness testing and health questionnaires engage legal principles relating to the exercise of managerial powers in unionized environments, human rights obligations, and privacy concerns.

Human Rights Considerations

- “ Fitness testing automatically discriminates against individuals with physical or perhaps mental disabilities. Discrimination arises because the disability may prevent or hinder the person from passing the fitness testing, which in turn may cause an employer to not hire them or prevent them from returning to work.

Human Rights Considerations

Employers can justify such discriminatory policies if they:

- “ demonstrate that each element of the test is a bona fide occupational requirement (a “BFOR”); and
- “ incorporate into the program a process for reviewing whether the candidate or employee can be “accommodated to the point of undue hardship.”

Human Rights Considerations

The employer must establish that a fitness testing program:

- “ was created for purposes rationally connected to the job/work;
- “ is necessary for a work-related purpose (e.g., safety, physical requirement, compliance with site-owner requirements, past injuries); and
- “ is reasonably necessary to accomplish the work-related purpose—each and every question, test, and requirement must be necessary. You must demonstrate that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer.

Privacy Laws

- “ Canadian privacy laws place significant restrictions on collecting, using, and distributing “personal information” and “personal employee information,” including much of what you’d collect during a fitness test.
- “ To avoid breaking such laws, the employer must obtain the candidate’s / employee’s informed consent at each stage of information gathering. One blanket consent form for multiple disclosures or collections of information is not sufficient.

Best Practices – Fitness to Work Checklist

“ The following checklist provides a quick guide to some of the key considerations in developing and implementing a fitness testing program.

Collect Evidence of Fitness/Health Issues for Worksite

- “ Employers should collect as much information as possible to show there is a need for workplace testing given the health-related concerns with the worksite and workforce.
- “ Consider the following sources: WCB reporting and injury reports, OH&S investigations, Employee-disclosed health issues, Reasonable Cause fitness testing results. This is a critical requirement when considering universal or random fitness testing.

Clearly Drafted Policy

- “ The policy must make clear the consequences for failure of testing and must include the guarantee that the employer will accommodate those who cannot successfully complete the testing to the extent required by human rights legislation.
- “ The policy should provide a clear description of each component of the testing program and should be made available to all affected persons and the union.

Communication of the Policy

- “ PDAs and testing requirements should be made part of job descriptions.
- “ In the case of non-unionized employers, these should be integrated into contracts of employment.
- “ For unionized employers it is recommended that it be brought to a union’s attention at least 2 months in advance of implementation.

Develop Physical Demands Analysis (PDA) for Each Position/Task

- “ PDA is a breakdown of every task performed for each position, the time spent on each task, and every fitness related hazard associated with that task. It should enable a testing facility to determine the minimum physical requirements of the tasks and position. Reliance on template PDAs is not best practice as job requirements may differ between job sites and employers.
- “ PDAs are typically created through direct observation of workers performing tasks and interviews of those employees in order to understand the job tasks.
- “ Obtaining Union agreement for PDAs provides significant advantages to avoid and resist legal challenges.

Develop Testing Thresholds for Each Position

- “ Fitness testing includes strength and other fitness tests.
- “ Testing should be tailored to meet the minimum requirements to safely perform the tasks identified in the PDA.
- “ Fitness tests are typically developed by third-party providers specializing in developing and implementing fitness testing. Where possible, completing testing should be incorporated into pre-conditions of employment.

Developing Medical Questionnaires and Requirement to Report Injuries

- “ **Reporting** - The Policy should require employees to disclose current and previous injuries and medical conditions that may impact the ability of the employee to safely perform the tasks as identified in the PDA, and those that may impact the ability of the employee to safely proceed with the testing. It should also indicate how this information is to be kept confidential, and confirm that the employer will accommodate disabilities to the extent required by law.

Developing Medical Questionnaires and Requirement to Report Injuries

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“ **Questionnaire & Disclosure** – Medical questionnaires and authorization for release of medical information are vital parts of a fitness testing policy. All medical information sought must directly relate to the ability of the employee to meet the minimum demands of the position identified in the PDA. Third-party providers specializing in developing and implementing fitness testing are available to assist in developing medical questionnaires and requests. Each time medical information is sought from some person or organization other than the candidate or employee, the employee or candidate must provide consent.”

Developing a System for Reviewing Fitness Results (Providing Accommodation)

- “ Policies must include a process where the employer assesses each unsuccessful candidate and employee to determine whether:
 - . the failure was related to a disability or other protected grounds; and,
 - . there is an ability to reasonably accommodate the employee or candidate or whether accommodation would impose an undue hardship
- “ Policies should include a guarantee that the employer will abide by its legal obligations under human rights legislation and that it will attempt to accommodate any employee or candidate to the extent required by law.
- “ Consent must be obtained from the employee or candidate to share information required for the review and the policy should explain how information is to be kept confidential.

Deciding When Testing is Required

- “ Employers typically test fitness in three scenarios (reasonable cause/post-incident, universal or random testing, and pre-employment). Employers should carefully consider the risks and advantages of each when determine which forms of testing should be part of the fitness testing policy.
- “ Universal/Random Testing is the most difficult to justify in human rights and union legal proceedings. Strong evidence of a substantial workplace problem related to fitness and medical issues is likely a key requirement.
- “ Reasonable Cause & Post-Incident Testing is not only more resistant to legal challenge but may also provide evidence of a substantial workplace fitness problem in the event the employer wishes to consider universal, random or pre-employment testing.

Deciding When Testing is Required

Cont.

- “ Pre-employment testing may be justified as a necessary job requirement. However, employers dealing with union hiring halls under collective agreements may not be able to place conditions on candidates where they have bargained away the right of selection or provided the union with the obligation to provide qualified workers.
- “ Employers are generally not responsible for justifying site-owner testing imposed and conducted by the site owner, and normally need only accommodate those who do not pass the site screening requirement. However, where site-owners require employers to implement fitness testing, the employers will likely need to both justify the policy and demonstrate accommodation of those with disabilities to the point of undue hardship.

Deciding Who Pays (Candidate/Employee or Employer)

- “ **Pre-Employment Testing:** In non-union environments, employers can more likely justify requiring candidates to take on the cost of testing. In unionized environments requiring candidates to pay may be both unreasonable and may violate union rights to bargain the conditions of work.
- “ **Testing During Employment:** Imposing costs on employees that are not contemplated in a collective agreement or contract of employment are likely invalid. Employers should be willing to cover the costs of testing of current employees.

PDA Benefits

- “ Orients new hires to tasks and demands
- “ Used by health professionals & case management to support RTW process (reduces treatment time and improves outcomes)

Site Project Insights

- “ Many of the sites had outdated PDAs
- “ Existing documentation was limited in detail
- “ PDAs for different levels of apprenticeship found to be very valuable
- “ Having a site contact really helped facilitate the PDA process.

Repository

“ <https://www.coaa.ab.ca/> ”