

March 2019

Benchtop Silicosis

- Another Person Jailed
- Australia's Top Safety Violations
- Safety Leadership – Last Chance

Welcome to the March Safety Action News

This month Gary revisits the risk of silicosis when cutting or sanding stone benchtops. Last chance to book for our March, 2-day safety leadership course (page 5).

Register for the popular Big Workplace Breakfast hosted by Safety Action, in Clayton. Read more on page 7.

Stay safe!

Andrea Rowe

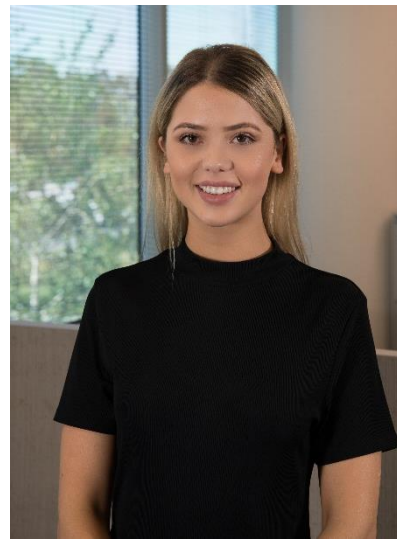


Andrea Rowe, General Manager

The Safety Action Team



Gary Rowe, CEO



Zara McMahon



Dr. Stephen Weber



Ben Olih

Benchtop Silicosis Epidemic

Our newsletter of October last year featured an article on **“Kitchen Benchtops Killing Tradies”**. We explained the risks associated with the growing use of artificial stone benchtops in new buildings and home renovations.

Feedback from some readers asked, **“what is different between cutting and sanding real stone (e.g. granite) benchtops and the reported risks with new products like artificial stone benchtops?”**

Silicosis or fibrosis of the lungs due to inhalation of crystalline free silica, is a disease that was thought to be virtually eradicated in Australia until recently.

Even though the causes of silicosis and methods of prevention are well known for at least 70 years, and it being one of the oldest recognised lung diseases (pneumoconiosis) caused by exposure to dust, we are currently experiencing a worrying adverse trend of silicosis in Australia.

In the last few years the number of reported cases of silicosis in young men has grown dramatically.

The table below highlights very clearly where the problem arises with artificial stone benchtops.

Material Type	Silica Content
Shale	20%
Granite	30%
Artificial stone	90% or more



The table above shows that the risk exposure to silica dust is much higher with artificial stone than natural stone, and workers cutting, and sanding kitchen and bathroom benchtops have not recognised the higher level of risk associated with this relatively new material.

Many workers will say “but I do wear a respirator” when cutting or sanding artificial stone benchtops. However, safety experts and providers of high quality personal protective equipment, like our good friends at 3M, advise workers should be fit-tested for respirators when exposed to hazardous dust. Along with other precautions like wet sanding and cutting to minimize airborne dust.

Safety regulators are increasingly, and appropriately, issuing notices requiring respirator fit-testing where workers are exposed to toxic or highly hazardous dusts.

***Safety Action can provide respirator (and hearing protection) fit-testing if desired.
Simply call to arrange.***

For more information on this topic, courtesy of 3M go to:

Science of Safety Podcast.

Episode 5: Silica in the Workplace – Part 1.

https://www.3m.com.au/3M/en_AU/safety-au/stories/full-story/?storyid=a3693443-66f4-4c83-9e06-d912d28018ae

Science of Safety Podcast.

Episode 6: Silica in the Workplace – Part 2.

https://www.3m.com.au/3M/en_AU/safety-au/stories/full-story/?storyid=0dae66b0-e013-405d-9406-82647796f7e8

www.safetyaction.com.au

Australia's Top Safety Violations

What the regulators are focusing on in 2019

What is the focus of Australian and New Zealand workplace safety regulators for 2019?

Based initially on review of Australia-wide data for safety prosecutions in 2018 we found the top 5 areas resulting in convictions include:

- | | |
|-----------------------------|----|
| 1. Falls from Height | 61 |
| 2. Mobile Plant | 58 |
| 3. Inadequate Training | 25 |
| 4. Guarding of Machinery | 12 |
| 5. Asbestos Work & Disposal | 10 |

When we looked at prosecutions specifically involving fatalities the order of the list changed a little and not surprisingly, electrical shock featured, per the table below.

1. Mobile Plant
2. Falls from Height
3. Systems of Work and Training
4. Electrical

The focus of workplace inspectors varies according to the circumstances and nature of any complaint that brings them to your premises, as well as their personal experience and expertise.

Based on our personal experience over recent months, the Safety Action team have observed a strong and growing interest in:

- 1) Working at height protection
- 2) Dangerous Goods; storage, registers, RAs & fire protection
- 3) Silica dust and fit-testing
- 4) Site traffic management to protect pedestrians
- 5) Machine guarding
- 6) Chain of responsibility (CoR) for vehicles >4.5Tonne
- 7) Farm safety

You have been warned!

If you would like a safety review of any workplace safety concern or area call for an obligation free quote.

Chain of Responsibility (CoR) Workshop

Tuesday 23rd April 2019, 12.30pm – 4.00pm – Clayton, VIC

Compliance and key requirements of the new chain of responsibility laws for trucks and heavy vehicles. Also includes load dimensions and restraints.

[Click here to register.](#)

Don't Get Caught Out with Chemicals

A recent safety alert by Worksafe Vic on *chemical waste and dangerous goods* -recommends that managers of facilities with dangerous goods and chemical –

- Confirm safe storage and handling e.g. seek independent advice;
- Identify all dangerous goods in your workplace;
- Control associated hazards;
- Understand your legal obligation e.g. labelling, fire protection, placarding and packaging &
- Notification requirements.



Failure to notify Worksafe when dangerous goods exceed prescribed limits can attract penalties as shown below.

Applicable legislation	Penalty *	
<ul style="list-style-type: none"> • Vic Dangerous Goods (Storage and Handling) Regulations 2012) Reg 66 & • Vic Dangerous Goods Act 1985 ss. 45 and 45A 	First Offence	Subsequent Offence
	Individual – \$16,000 + \$161 for each day offence continues after conviction.	Individual - \$80,000 or up to 5 years imprisonment
	Corporate body – \$64,000 + \$8000 for each day offence continues after conviction.	Corporate body – \$400,000

**Based on current penalty unit of \$161.19*



For further advice and support to enable you comply` with your legal requirements on chemical labelling, placarding, notification, storage and handling call **Safety Action**.

Contact [Safety Action](#) for a Fact Sheet on Dangerous Goods Placarding.

Safety Compliance for Automated Workplaces

Tuesday 23rd April 2019, 8.00 AM – 12.00 PM – Clayton, VIC

\$450+GST

Gary Rowe, CEO and highly qualified and experienced safety engineer will lead this unique half-day introduction to this exciting topic.

The session will include things like:

- How do the safeguarding regulations apply to collaborative robots (Cobots) and automated guided vehicles (AGVs)?
- How do I specify and purchase a safe and compliant robot/cobot/AGV?
- How do I assess existing automated processes for safety and compliance?
- What standards and regulations apply to this type of equipment?
- Provision of a simple unique checklist to easily assess and confirm safety and compliance.

[Click here to register.](#)

Safety Leadership Workshop

Book before 11 February for Early Bird price

Workshop includes; effective communication, safety legislation, what to do and not to do when there's a safety incident, risk assessments, review work procedures and conduct safety talks and positively change behaviours.

Tuesday 12th & Wednesday 13th March 2019

\$1500+GST includes catering for both days and a comprehensive manual.

8.00am – 4.00pm each day

Safety Action, Clayton

[Click here to register.](#)

"I wished I had done this course 20 years ago"

– Manager, Melbourne Water

"Everything I thought I knew about safety law was wrong"

– Metro Manager



BOOK NOW

Upcoming Webinars

THU 7 MAR / 11.00 AM [Machinery Safety – Part 2: Common Hazards](#)

TUE 26 MAR / 2.00 PM [Chemicals – Part 2: DG Placarding](#)

WED 3 APR / 11.00 AM [CoR Operator Duties e.g. loading & restraint](#)

Poorly worded policy costs employee their job and the company \$18,000

A recent Fair Work Commission [[Guorgi v Transdev Queensland Pty Ltd \[2019\] FWCFB 898 \(13 February 2019\)](#)] has recently ruled that despite there being no identifiable effect or risk to the employee's office-based job, from taking the over-the-counter pain medication 'Nurofen Plus', the worker still failed in their duty to follow company policy and thus it was a valid reason for their dismissal.

The commission did find that the policy was poorly worded, creating confusion, but the intent was to impose an obligation on workers to notify the employer when they were taking prescription or over-the-counter medication, and what effects the drugs might have, as soon as reasonably practicable.

Thus, due to the confusion, the commission found the employees actions weren't wilful or deliberate. The company was ordered to pay the worker \$17,795, in lieu of reinstatement, and said its policy could be made clearer.

With the ever-increasing focus on drugs and alcohol in the workplace, employers should ensure they have a clearly worded and established Drugs and Alcohol policy including a position on over-the-counter medication, ensuring all employees are trained in the policy and understand their obligations in relation to compliance.

For further information see Safety Action Fact Sheet 'Analgesics in First Aid Kits' or contact the Safety Action team for more information.

Another Person Jailed for WHS Breach

Following our news last month where a person was jailed for breaches of the Victorian OHS Act, a Queensland roofing business co-owner has also been sentenced to jail for one year.

His company was also fined \$1m following a fatal accident in July 2014, where a roofing worker fell 6 metres from the top of a building not fitted with edge protection.

The jailed roofing business owner, Gary Lavin, chose not to install handrails on the roof edge even though he had included it in his work quotation and was paid to do so. The court concluded he was motivated by money not to provide the level of protection required by law and by his contract.

The court concluded the worker probably stumbled as he approached the edge.

Initially the business arranged temporary handrails by parking scissor lifts against the building where workers needed to be close to the edge. It is suspected that rubble near building prevented scissor lifts parking where the worker fell.



Sample scene showing a worker near an unprotected edge

Proof that installing handrails were reasonably practicable was demonstrated by the business when they installed handrails within 2 days after the tragic accident at a modest cost of \$5,000.

The judge said Lavin might have been jailed for longer if he were an Australian citizen.

For a copy of the judge's commentary on the case and sentence [click here](#).

Consultation soon to begin regarding cost of Australian Standards

Following a December 2018 ruling the Standards Australia's future agreements with SIA Global (which ended on 16 December 2018) will be 'non-exclusive' thus allowing SA (in their words) to "explore additional distribution channels" and "empower those who use our content".

This new model is yet to be developed but will start with community consultation and look at ways of delivering easier and cheaper access to the Standards.

This is exciting news as the increasing number and cost of Australian Standards has increasingly but businesses, particularly small to medium organisations in danger by pricing them out of access to valuable information.

We will keep you updated once more information is known and encourage all businesses to actively engage with this process of redefining access to an extremely important safety resource.

The **BIG** Workplace Breakfast



My employee is not fit for the job – what next?

It doesn't matter whether your employee says they are unfit or whether you have observed they are unfit - Courts and Tribunals have made it clear:

If a reasonable person should have observed someone was not fit for the inherent requirements of their duties you MUST act!

What you will learn:

1. We will teach you how safety, discrimination, privacy, workers' compensation, employment and industrial law interact and what your responsibilities (and opportunities) are, and what you MUST do!
2. What the terms 'inherent requirements' of the job and 'reasonable adjustments' mean
3. When you can terminate and how - including templates
4. How to write to health professionals - including templates
5. How to engage with your insurer and manage your premium
6. How the statutory legal obligations interact with the common law duties around health, injury management and performance
7. Understanding stress-based claims, the management of claims and rejection/termination of claims

Tuesday, 26 February 2019

Intercontinental Melbourne, The Rialto
495 Collins Street
Melbourne VIC 3000
7:40am – 9:00am

Tuesday, 19 March 2019

UniPark Conference Centre
195 Wellington Road
Clayton VIC 3168
7:40am – 9:00am

To reserve your place **RSVP** to
events@fcwlawyers.com.au

Meet our presenters



Andrew Douglas

As Managing Principal of FCW Lawyers, Andrew brings together many years of advisory experience, both his own and that of the team he has assembled, in this unique collaboration of diverse and deep consulting skills.

Andrew has an established reputation for achieving positive outcomes for his clients in workplace law in Australia, Asia and New Zealand.



Kim McLagan

Kim is a Principal Lawyer and the General Manager for Victoria at FCW Lawyers.

Kim specialises in workers' compensation law and works throughout Australia with employers advising on managing work and non work-related employee injuries, serious safety incidents and managing complex health and performance-related employee issues.



Gary Rowe

Gary is the Chief Executive Officer of Safety Action Pty Ltd® and has over 25 years' experience in workplace safety and leadership. Key specialities include: safety culture and leadership programs, independent facilitator, contractor management, incident investigations and strategic planning. Other areas of expertise include coaching executive teams and governance committees in risk management and safety leadership.



Simon Booth

Simon is a former Psychologist who started his career in Workers' Compensation in 1998.

Since then he has worked across underwriting, risk management, loss control, injury management and claims management. As an Insurance Broker specialising in Workers' Compensation, he works with employers nationally to reduce their risks, liabilities and premium spend.