

March 22, 2022

Louise Greenberg PhD.  
Chairperson  
Saskatchewan Workers' Compensation Committee of Review  
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Dear Dr. Greenberg:

On behalf of the Saskatchewan Workers' Compensation Board, I would like to thank the Committee of Review for providing our organization the opportunity to provide input towards opportunities for improvement. As you know, WCB has embarked on a large scale, multi-year business transformation program will address many of the opportunities and concerns raised by our customers and partners. With this in mind, we have chosen to focus on legislative changes that we believe will enable us to implement changes will further allow us to serve our customers better.

The Saskatchewan Workers' Compensation Board respectfully offers the following legislative amendments for the Committee of Review to consider.

The proposed legislative changes below, represent what we believe to be the most value-added changes to the WCB Act or Regulations that could help us achieve our vision and provide better customer service.

**Issue: Medical Review Panel (MRP) requests** – Changes to Sections 59, 60 and 61 of the Act could simplify and improve the process related to MRPs leading to improved customer service.

WCB proposes the following amendments to the Act to improve the MRP process:

Section 59(1) – Better define “a worker who claims compensation” so that workers understand they are only eligible to apply for an MRP related to a medical question on an accepted injury claim. Too many workers interpret that section as qualifying anyone who has asked for compensation, even if their claim has consistently been denied. This can lead to frustration for our customers and additional work for WCB to help clarify the intent of this section of the Act.

Section 59(3) (c) – Clarify for physicians what constitutes “sufficient particulars”. This can be confusing for physicians which can add delays to the process.

Section 60(3) - Clarify when and in what numbers the Board can appoint alternate Chairs.

Section 61(1) (a) & (b) – Consider a process for potentially excluding, from the lists, of the following:

- Physicians or chiropractors who have recorded opinions or advocated for the worker as this hinders WCB in ensuring an unbiased review process. It can be exceedingly difficult to find a medical professional who is prepared to commit to sit on a Medical Review Panel where they may find themselves at odds with colleagues in the same city on the same panel. Given the limited population of medical specialists in Saskatchewan the legislation should not automatically disqualify a physician or chiropractor simply because they have rendered a previous opinion related to a specific injury or worker.
- Consider the removal from the lists of any physician or chiropractor who has already advised WCB that they are never prepared to sit on such panels;
- Also, provide remedies or a defined process to remove any selected specialist who fails to confirm or decline to participate on the panel, despite repeated requests from the Board for a response.

Pending legislative changes, the Board could consider amending policy to provide the clarity needed regarding s.59(1) and s.59(3)(c) by defining both of the terms in question. Those definitions are not currently in policy.

<b>Current language</b>	<b>Proposed change</b>
<p><i>Request of worker for examination 59 (Act)</i>  <i>(1) This section applies if:</i>  <u><b>(a) a worker who claims compensation has:</b></u>  <i>(i) represented to the board that:</i>  <i>(A) the worker suffers a greater functional impairment than that decided by the board;</i>  <i>(B) the worker suffers a greater limitation in working capacity than that decided by the board;</i>  <i>(C) the worker should be granted compensation for a longer period than the period allowed by the board; or</i>  <i>(D) the decision of the board was based on a physician’s report that was erroneous or incomplete; and</i>  <i>(ii) exhausted his or her rights to a reconsideration or review of a decision by the board; or</i></p>	<p><i>Request of worker for examination 59 (Act)</i>  <i>(1) This section applies if:</i>  <u><b>(a) a worker has suffered a work injury and who has:</b></u>  <i>(i) represented to the board that:</i>  <i>(A) the worker suffers a greater functional impairment than that decided by the board;</i>  <i>(B) the worker suffers a greater limitation in working capacity than that decided by the board;</i>  <i>(C) the worker should be granted compensation for a longer period than the period allowed by the board; or</i>  <i>(D) the decision of the board was based on a physician’s report that was erroneous or incomplete; and</i>  <i>(ii) exhausted his or her rights to a reconsideration or review of a decision by the board; or</i></p>



<p><b><u>(b) a deceased worker's dependent who claims compensation has:</u></b></p> <p>(i) represented to the board that:</p> <p>(A) the deceased worker suffered a greater functional impairment than that decided by the board;</p> <p>(B) the deceased worker suffered a greater limitation in working capacity than that decided by the board;</p> <p>(C) the deceased worker should have been granted compensation for a longer period than the period allowed by the board; or</p> <p>(D) the decision of the board was based on a physician's report that was erroneous or incomplete; and</p> <p>(ii) exhausted his or her rights to a reconsideration or review of a decision by the board.</p> <p>(2) In the circumstances mentioned in subsection (1), the worker or the deceased worker's dependent:</p> <p>(a) may in writing request the board to provide for a medical review panel:</p> <p>(i) to examine the worker; or</p> <p>(ii) in the case of a deceased worker, to examine the medical information relating to the deceased worker; and</p> <p>(b) if a written request is made pursuant to clause (a), must specify whether the examination is to be in Regina or Saskatoon.</p> <p>(3) A written request pursuant to this section must be accompanied by a certificate of a physician or chiropractor that:</p> <p>(a) states that, in his or her opinion, there is a genuine medical question to be determined;</p> <p>(b) sets out the aspects of the board's determination of the medical question that the physician or chiropractor disagrees with; and</p> <p>(c) provides sufficient particulars of the question to define the matters at issue.</p>	<p><b><u>(b)the dependent of a deceased worker who suffered a work injury has:</u></b></p> <p>(i) represented to the board that:</p> <p>(A) the deceased worker suffered a greater functional impairment than that decided by the board;</p> <p>(B) the deceased worker suffered a greater limitation in working capacity than that decided by the board;</p> <p>(C) the deceased worker should have been granted compensation for a longer period than the period allowed by the board; or</p> <p>(D) the decision of the board was based on a physician's report that was erroneous or incomplete; and</p> <p>(ii) exhausted his or her rights to a reconsideration or review of a decision by the board.</p>
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<b>Current language</b>	<b>Proposed change</b>
<p><b>Chairperson of medical review panel 60 (Act)</b></p> <p>(1) In consultation with the Saskatchewan Medical Association, the board shall appoint:</p> <p>(a) a resident of Regina, who is a physician engaged in the general practice of medicine, to be the chairperson of the medical review panel when a medical review panel is established at Regina; and</p> <p>(b) a resident of Saskatoon, who is a physician engaged in the general practice of medicine, to be</p>	<p><b>Chairperson of medical review panel 60 (Act)</b></p> <p>(1) In consultation with the Saskatchewan Medical Association, the board shall appoint two chairpersons who are physicians engaged in the general practice of medicine, either to be selected to act as a chairperson of the medical review panel when a medical review panel is established to be held in either Regina or Saskatoon.</p> <p>(2) Each of the persons appointed pursuant to subsection (1):</p>



<p>the chairperson of the medical review panel when a medical review panel is established at Saskatoon.</p> <p>(2) Each of the persons appointed pursuant to subsection (1):</p> <p>(a) holds office for a term of three years and until a successor is appointed; and</p> <p>(b) is eligible for reappointment.</p> <p>(3) If a chairperson of a medical review panel is unable or unwilling to act, the board shall, in consultation with the Saskatchewan Medical Association, appoint another person pursuant to subsection (1) to act for the period that the board specifies.</p>	<p>(a) holds office for a term of three years and until a successor is appointed; and</p> <p>(b) is eligible for reappointment.</p> <p>(3) If both of the chairpersons are unable or unwilling to act on a medical review panel, the board shall, in consultation with the Saskatchewan Medical Association, appoint another person pursuant to subsection (1) to act for the period that the board specifies.</p>
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Current language	Proposed change
<p><b>Selection of specialists 61 (Act)</b></p> <p>(1) On receipt of a request pursuant to section 59, the board shall immediately mail or deliver to the worker or the deceased worker's dependent requesting the examination:</p> <p>(a) one or two lists setting out the names of all physicians who practice in the city named in the request and who are specialists in the classes of injuries for which compensation has been claimed, excluding:</p> <p>(i) the name of a physician who provided a certificate mentioned in subsection 59(3); and</p> <p>(ii) the names of the physicians who have provided a recorded opinion <i>adverse</i> to the opinion stated in the certificate; or</p> <p>(b) on the request of the worker or deceased worker's dependent requesting the examination:</p> <p>(i) one list of specialists as described in clause (a); and</p> <p>(ii) one list setting out the names of all chiropractors who practice in the city named in the request, excluding:</p> <p>(A) the name of a chiropractor who provided a certificate mentioned in subsection 59(3); and</p> <p>(B) the names of the chiropractors who have provided a recorded opinion <i>adverse</i> to the opinion stated in the certificate.</p> <p>(2) The worker or the deceased worker's dependent requesting the examination shall:</p> <p>(a) select:</p> <p>(i) if one list is provided, two specialists from the list; or</p> <p>(ii) if two lists are provided, one specialist or chiropractor from each list; and</p>	<p><b>Selection of specialists 61 (Act)</b></p> <p>(1) On receipt of a request pursuant to section 59, the board shall immediately mail or deliver to the worker or the deceased worker's dependent requesting the examination:</p> <p>(a) one or two lists setting out the names of all physicians who practice in the city named in the request and who are specialists in the classes of injuries for which compensation has been claimed, <b>with the possibility of excluding:</b></p> <p>(i) the name of a physician who provided a certificate mentioned in subsection 59(3); and</p> <p>(ii) the names of the physicians who have provided a recorded opinion to the opinion stated in the certificate; or</p> <p>(b) on the request of the worker or deceased worker's dependent requesting the examination:</p> <p>(i) one list of specialists as described in clause (a); and</p> <p>(ii) one list setting out the names of all chiropractors who practice in the city named in the request, <b>with the possibility of excluding:</b></p> <p>(A) the name of a chiropractor who provided a certificate mentioned in subsection 59(3); and</p> <p>(B) the names of the chiropractors who have provided a recorded opinion to the opinion stated in the certificate.</p> <p>(2) The worker or the deceased worker's dependent requesting the examination shall:</p> <p>(a) select:</p> <p>(i) if one list is provided, two specialists from the list; or</p> <p>(ii) if two lists are provided, one specialist or chiropractor from each list; and</p>



<p><i>(b) promptly notify the board in writing of his or her selection.</i></p> <p><i>(3) On notification of the selected persons, the board shall immediately request those persons to sit on the medical review panel and notify the chairperson of the medical review panel of the persons who will sit on the panel.</i></p> <p><i>(4) If a selected person refuses to sit on the medical review panel, the board shall instruct the worker or the deceased worker's dependent to <b>select another</b> person from the same list from which the person who refused was selected.</i></p>	<p><i>(b) promptly notify the board in writing of his or her selection.</i></p> <p><i>(3) On notification of the selected persons, the board shall immediately request those persons to sit on the medical review panel and notify the chairperson of the medical review panel of the persons who will sit on the panel.</i></p> <p><i>(4) If a selected person refuses to sit on the medical review panel, the board shall instruct the worker or the deceased worker's dependent <b>to rank the choice of the other persons for selection</b> from the same list from which the person who refused was selected.</i></p>
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**Issue: Payroll reporting** – Section 122 of the Act and Section 3 of the General Regulations make it challenging for WCB to offer employers flexible and accurate payroll reporting arrangements like monthly or quarterly actual payroll reporting. We would recommend an amendment to Section 3 of the WCB General Regulations to allow WCB to offer employer more flexibility and accurate payroll reporting options. This change would create the opportunity for WCB to set-up a payroll reporting system that would reduce re-work by employers and WCB in reconciling actual versus estimated payroll. This would help WCB, in part, address a recommendation the Saskatchewan Government Red Tape Reduction program received related to WCB payroll reporting requirements.

<b>Current language</b>	<b>Proposed change</b>
<p><i>Payroll statements to be furnished by employers 122 (Act)</i></p> <p><i>(1) Every employer shall annually prepare and transmit to the board a payroll statement setting out: (a) the amount of the earnings of all workers in the employer's employ during the preceding year, or any part of the preceding year that the board may specify; (b) an estimate of the amount the employer will expend for wages during the current year, or any part of the current year that the board may specify; and (c) any additional information that the board may require.</i></p> <p><i>(2) Every payroll statement prepared pursuant to subsection (1) must: (a) be prepared in accordance with any requirements prescribed in the regulations; (b) be submitted on or before a date set by the board and at any other time or times that the board may, by order, require; and (c) be certified by the employer or the manager of the business, or, if the employer is a corporation, by an officer of the corporation having personal knowledge of the matters certified, to be true, correct and complete in every respect.</i></p> <p><i>(3) Every employer shall produce for examination, in any form and in any detail that the board may require, a careful and accurate account of all wages paid to the employer's workers.</i></p> <p><i>(4) If the business of the employer includes more than one class of industries, the board may require separate payroll statements to be made in accordance with subsection (1) with respect to each class. 2013, c.W-17.11, s.122.</i></p> <p><i>Pay-roll Statements (Regulations)</i></p> <p><i>Submission of pay-roll statement 3</i></p> <p><i>(1) Every employer shall, on or before February 28 in each year, submit to the office of the board the statement required by section 124 of the Act.</i></p> <p><i>(2) Subject to subsection (3), if, in any year, a statement mentioned in subsection (1) is not received in the office of the board on or before</i></p>	<p><i>Amend Act and regulations to allow board to afford more flexibility of timing of submission of premiums.</i></p>



*February 28, the employer required to submit the statement shall, for the year in which the default occurs, pay an additional assessment, mentioned in section 125 of the Act, of five per cent of the actual assessment for the preceding year and an additional five per cent of the actual assessment for the preceding year for each period of 30 days during which the default continues.*

*(3) In no case shall the total additional assessment prescribed in subsection (2) exceed 15 per cent of the actual assessment for the preceding year. 16 Aug 85 cW-17.1 Reg 1 s3; 10 Jne 88 SR 42/88 s3*

**Issue: Interest on over payments** - Employers are responsible for providing accurate payroll statements. We suggest that regulation 10 should be repealed to remove the credit for employers that overestimate their payroll by more than 50% and regulation 9(1) should be amended to state that the penalty for employers that underestimated their payroll by more than 50% is based on Bank Prime Rate for the preceding year plus 3%.

Section 122 Payroll statements to be furnished by employers.

Subsection (2)(c) of the Act states: (2)(c) Every payroll statement prepared must be certified by the employer or the manager of the business, or, if the employer is a corporation, by an officer of the corporation having personal knowledge of the matters certified, to be true, correct and complete in every respect.

Regulation 10 applies when an employer's estimated payroll for the year is more than 50% higher than their actual payroll for the year as long as the employer has paid their required premiums by September 30. Regulation 9(1) penalizes employers for underestimating payroll by more than 50% whereas Regulation 10 rewards employers for overestimating payroll by more than 50%.

When regulation 9(1) was first written the Bank of Canada prime rate was 11.25%. Making the penalty based on Bank of Canada Prime Rate for the preceding year will allow the penalty to change as the interest rate environment changes.

By amending Regulation 10 employers will be encouraged to report their payroll accurately. Removing this regulation will mean employers will no longer benefit by significantly overestimating their payroll. We believe the root cause of this issue, estimating payroll, could potentially be eliminated if Section 3 of the General Regulations were changed to allow WCB to offer employers more flexibility to report their payroll.

Currently, using normal investment return calculations, employers paid 6% would earn a 12% return on their money if WCB has their money for six months and would earn an 18% return if WCB has their money for only three months. Section 9(1) does not provide the flexibility to adjust the percentage used in the calculation based on the current interest rate environment. In the current low interest rate environment, a fixed 6% rate results in a significantly different impact on employers (1985 bank prime rate of 11.25% vs 3% today)



We recommend the amendment of Section 10 to base the credit calculation on Bank Prime Rate prorated for the number of days from when the employer paid their required premiums to when their actual payroll is assessed.

<i>Current language</i>	<i>Proposed change</i>
<p><b>Adjusted assessment</b></p> <p><i>9(1) In an adjustment of an assessment on the actual pay-roll for the preceding year, if the actual pay-roll exceeds the estimated pay-roll by more than 50%, the employer shall pay as a penalty <b>6%</b> of the difference between:</i></p> <p><i>(a) what the assessment would have been on the actual pay-roll; and</i></p> <p><i>(b) what the assessment is on the estimate of pay-roll;</i></p> <p><i>within 30 days from the date the adjusted assessment notice is mailed.</i></p> <p><i>(2) If the employer is in default of payment of the adjusted assessment and penalty mentioned in subsection (1), he or she shall pay a penalty calculated in accordance with section 8.</i></p> <p><b>Credit re adjusted assessment 10 (Regulations)</b></p> <p><i>10 With respect to an adjustment of an assessment for the preceding year, when the actual pay-roll for that year has been ascertained to be less than 50% of the estimated pay-roll and the entire provisional assessment has been paid not later than September 30, 6% of the difference, exclusive of any additional assessment or additional percentage, between the amount paid and what the assessment at the provisional rate would have been if the estimate had been the amount of the actual</i></p>	<p><b>Adjusted assessment</b></p> <p><i>9(1) In an adjustment of an assessment on the actual pay-roll for the preceding year, if the actual pay-roll exceeds the estimated pay-roll by more than 50%, the employer shall pay as a penalty <b>a percentage that is the sum of: (a) the Bank of Canada bank rate on October 31 of the immediately preceding year; and (b) three per cent; rounded off to the nearest one-quarter of one percent,</b> of the difference between:</i></p> <p><i>(a) what the assessment would have been on the actual pay-roll; and</i></p> <p><i>(b) what the assessment is on the estimate of pay-roll;</i></p> <p><i>within 30 days from the date the adjusted assessment notice is mailed.</i></p> <p><i>(2) If the employer is in default of payment of the adjusted assessment and penalty mentioned in subsection (1), he or she shall pay a penalty calculated in accordance with section 8.</i></p> <p><b>(Repealed)</b></p>



<i>pay-roll is to be credited to the employer. 16 Aug 85 cW-17.1 Reg 1 s10.</i>	
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**Issue: WCB Prevention mandate** - As a partner in WorkSafe, we believe it would be beneficial to provide WCB a clear injury prevention mandate imbedded in the Act so that it prevents any potential future challenges to WCB's support of injury prevention. We suggest the legislation should be written in a way that WCB's role in prevention does not conflict with the role of Ministry of Labour Relations & Workplace Safety – OH&S Division. This change could replace Section 146.

**Proposed Language (example modified from MB)**

***Funding for research and safety programs***

- (1) The board may conduct or provide funding for research and safety programs on injury prevention, safety in the workplace, disability prevention and treatment of workplace injuries; and scientific, medical or other issues relating to workers' compensation.***
- (2) The board may make any expenditure from the Injury Fund required to conduct or provide funding for a research or safety program pursuant to subsection (1).***
- (3) The board may charge any expenditure made pursuant to subsection (2) against any industry, class of employer, subclass of employer or employer to which, in the opinion of the board, the research or safety program relates; and collect the expenditure in the same manner as the collection of an assessment.***

**Issue: Students in work-based learning** – The WCB Act and regulations does not specifically cover students in work-based learning programs. WCB currently supports coverage for students in work-based learning programs through a Memorandum of Understanding (MOU) with the Ministry of Education. The MOU has not been tested in a court of law. This gap in legislative coverage poses challenges and potential risks to the WCB, Ministry of Education, secondary schools, post-secondary schools and employers who support students in work-based learning programs. We would recommend legislative changes to those similar in Alberta that provide WCB coverage for students in work-based learning programs.

**Proposed Language for Regulations (example modified from AB)**

***Act to apply to Students and others***

***16.1 (1) The Board may make orders declaring that the Act applies to the following classes of persons:***

- (a) inmates of a correctional institution as defined in the Correctional Services Act, 2012 Act who***
  - (i) work inside or outside of the institution in an industry to which the Act does not apply, while they are so working, or***
  - (ii) participate inside or outside of the institution in a work-related rehabilitation program approved by the institution, while they are so participating;***
- (b) students registered in and attending***
  - (i) a university as defined in The Post-secondary Education and Skills Training Act,***



*(ii) a regional college as defined in The Regional Colleges Act;, or  
(iii) the polytechnic institution as defined in The Saskatchewan Polytechnic Act,*

*while they are in attendance, except those students who suffer accidents while engaging or participating in extra-curricular sporting, recreational, social or personal fulfilment activities which are not a current academic requisite or required as a part of the course of study in which the student is registered;*

*(c) persons in respect of whom the Government of Saskatchewan has made application to the Board to have the Act apply;*

*(d) students registered in a secondary school while they are attending and participating in a work experience program or the practical experience part of a work-related program, including courses in industrial education and home economics, if the program has been designated as such by the secondary school and approved by the Board.*

*(2) In making an order under subsection (1) the Board may exclude any individual, group of individuals or subclass from the classes listed in subsection (1).*

*(3) The compensation payable to a person who suffers an accident and to whom the Act is declared to apply under this section must, (a) in the case of a person to whom subsection (1)(a)(i) applies be based on,*

*(i) while the person is an inmate, the actual rate of wages paid to the person in the institution or facility, and*

*(ii) after the person is released from the institution or facility, the greater of*

*(A) the usual rate of wages that would be paid at the time of the accident to a person who performs similar work and is not an inmate, and*

*(B) the actual rate of wages paid to the person in the institution or facility at the time of the accident, and (b) in the case of a person to whom subsection (1)(a)(ii) applies, be based on the usual rate of wages paid at the time of the accident to apprentices in the trade that is most equivalent to the training provided by the work-related rehabilitation program or other program.*

*(4) The compensation paid under this section is subject to the maximum amount, if any, prescribed by the Act.*

*(5) Section 3(3) of the Act applies to the classes of persons subject to an order under this section.*

*(6) The Board may at any time revoke an order made under this section and, on the revocation, the persons referred to in the revocation cease to be workers to whom this Act applies as of the effective date of the revocation.*

*Proposed Language for Regulations*

*(d) students registered in a secondary school while they are attending and participating in a work experience program or the practical experience part of a work-related program, including courses in industrial education and home economics, if the program has been designated as such by the secondary school and approved by the Board.*



**Issue: Excluded industries & occupations** – While WCB believes that all workers deserve the protection and support of Workers’ Compensation, we recognize it may not be desirable to bring all industries and occupations under the legislation at this time. Saskatchewan’s WCB is among the bottom third of all jurisdictions for the percent of workers covered by the WCB legislation (see table below).

After consultation, WCB would recommend changes to Section 3 of the WCB Miscellaneous Regulations to remove some occupations from the list of excluded industries or occupations. For example:

- Teachers – Saskatchewan is the only jurisdiction where WCB does not cover this occupation
- Outworkers – The advancement of teleworking could leave many workers considered “outworkers” and potentially not covered by WCB which does not protect the employer or the worker.
- Door-to-door sales – Many sales related positions are already covered and the nature of the work is as hazardous if not more hazardous if you are selling door-to-door.
- Household servants – many of the tasks these people do are similar to daycare, cooking and cleaning which are all known to have significant hazards associated with the work.
- University professors, lecturers and instructors – we have a unique situation where the same instructor could teach the same class at a university, college or polytechnic and the university professor, lecturer or instructor would not be covered but the college and polytechnic professor, lecturer or instructor would be covered.

<b><i>Current language</i></b>	<b><i>Proposed change</i></b>
<p><b><i>Excluded industries and occupations 3 (Regulations)</i></b>  <b><i>The following industries and occupations are excluded from the provisions of the Act:</i></b></p> <p><b><i>(a) artists, entertainers and performers;</i></b>  <b><i>(b) circus operations, travelling shows and tradeshow;</i></b>  <b><i>(c) clergy;</i></b>  <b><i>(d) commercial fishing;</i></b>  <b><i>(e) subject to section 17 of The Workers’ Compensation General Regulations, 1985, employment of persons by the owner of a residence for the purposes of:</i></b>            <b><i>(i) construction of that residence;</i></b>            <b><i>(ii) making alterations or improvements to that residence; or</i></b>            <b><i>(iii) performing domestic functions in that residence;</i></b>  <b><i>(f) consulates and foreign embassies;</i></b>  <b><i>(g) dairy farming;</i></b>  <b><i>(h) demonstrating and exhibiting;</i></b></p>	<p>That steps be taken to increase the portion of workers in the province who are covered by WC Act.</p> <p>That consultations be undertaken with the occupational groups listed below to explore the appropriateness of removing them from the list of excluded industries and occupations;</p> <ul style="list-style-type: none"> <li>• Teachers</li> <li>• Outworkers</li> <li>• Door to door sales</li> <li>• Household servants</li> <li>• Post-secondary professors, lecturers, instructors</li> </ul>



<p><i>(i) feedlot or livestock yard operations that are not in connection with an industry within the scope of the Act;</i></p> <p><i>(j) flying operations that have no place of business in Saskatchewan and that are not licensed by the Canadian Transport Commission;</i></p> <p><i>(k) fur farms;</i></p> <p><i>(l) grazing co-operatives;</i></p> <p><i>(m) household servants employed in a private home by a resident of that home;</i></p> <p><i>(n) Indian bands or band endeavours on reserves;</i></p> <p><i>(o) land clearing, brush cutting or stumping that is not in connection with an industry within the scope of the Act;</i></p> <p><i>(p) livestock brokers;</i></p> <p><i>(q) mobile farm feed service or portable seed-cleaning plants;</i></p> <p><i>(r) door-to-door carriers delivering newspapers, flyers or other publications;</i></p> <p><i>(s) outworkers;</i></p> <p><i>(t) peddling or door-to-door sales;</i></p> <p><i>(u) persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business; (u.1) persons who:</i></p> <p style="padding-left: 40px;"><i>(i) are employed by a university or an affiliated or federated college of a university; and</i></p> <p style="padding-left: 40px;"><i>(ii) serve as a professor, associate professor, assistant professor, lecturer, special lecturer or instructor;</i></p> <p><i>(v) piggery farms;</i></p> <p><i>(w) poultry farms;</i></p> <p><i>(x) salespersons who sell goods for more than one manufacturer or supplier;</i></p> <p><i>(y) salespersons whose employers do not have a place of business in Saskatchewan;</i></p> <p><i>(z) school teachers employed under contract by a board of education or the conseil scolaire pursuant to section 200 of The Education Act, 1995;</i></p> <p><i>aa) selling or similar canvassing on streets;</i></p> <p><i>(bb) show judges;</i></p> <p><i>(cc) sports players, including sports coaches and instructors, while participating as a player or competitor in a sporting event of any kind;</i></p> <p><i>(dd) sports coaches and instructors employed by professional sports organizations whose intent is to derive profit from the playing of the sport rather than the providing of instruction;</i></p> <p><i>(ee) trapping;</i></p> <p><i>(ff) trucking firms based in the United States of America that employ only American citizens;</i></p>	<p>And that the list of industries and occupations be updated to be more reflective of the types and names of occupations and industries in the current business environment</p>
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<p><i>(gg) voluntary workers, except those in mine rescue work and members of the Emergency Measures Organization or a municipal fire brigade;</i></p> <p><i>(hh) the cutting, hauling and sawing of wood for fuel that is not in connection with an industry within the scope of the Act;</i></p> <p><i>(ii) unless the industries employ workers who are resident in Saskatchewan, industries that have no place of business in Saskatchewan that provide:</i></p> <p style="padding-left: 40px;"><i>(i) on-site warranty service, start-up supervision, training or service incidental to a sale or lease arrangement; or</i></p> <p style="padding-left: 40px;"><i>(ii) consulting or similar services.</i></p> <p><i>14 Mar 2014 cW-17.11 Reg 1 s3; 10 Apr 2015 SR 28/2015</i></p> <p><i>s2.</i></p>	
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**Issue: Impact of decreasing provincial Average Weekly wage on the maximum wage rates and minimum compensation** – In 2015, when drafting the 2016 maximum wage rate policy and minimum procedures, the AWW decreased. The Executive and Board Members indicated that it was not the intention of the new legislation or the previous Committee of Review to have a situation where the maximum or minimums would actually decrease. Further, the information provided to the Committee of Review (Maximum Wage Base Alternatives) and the AON Hewitt analysis only references increases to the maximum wage rates at the same rate as the rate of increase in the provincial average wage. These reports did not mention a possible situation of the average weekly wage decreasing.

<i>Current language</i>	<i>Proposed change</i>
<p><i>Therefore, a point was added to the Maximum Wage Rates policy to note: A decrease in Saskatchewan’s average weekly wage would result in a reduced maximum wage rate, which the Board considers to be unfair to the worker. Therefore, it is the Board’s intent that if the average weekly wage for the current year is less than the average weekly wage for the previous year, there will be no adjustment in the maximum wage rates.</i></p> <p><i>A point was added to the minimum procedures to note: It is the Board’s intent that if the average weekly wage for the current year is less than the average weekly wage for the previous year, there will be no adjustment.</i></p>	<p><i>182(1) If an amount is required in this Act or the regulations to be adjusted in accordance with this section, the adjusted amount must be calculated in accordance with the following formula:</i></p> <p style="padding-left: 20px;"><i>AM = A x AWWY / AWWPY</i></p> <p><i>where:</i></p> <p style="padding-left: 20px;"><i>AM is the adjusted amount;</i></p> <p style="padding-left: 20px;"><i>A is the amount to be adjusted;</i></p> <p style="padding-left: 20px;"><i>AWWY is the average weekly wage for the year in which the adjustment is being made; and</i></p>



<p><b>182(1) If an amount is required in this Act or the regulations to be adjusted in accordance with this section, the adjusted amount must be calculated in accordance with the following formula:</b></p> <p><b><math>AM = A \times AWWY / AWWPY</math></b></p> <p><b>where:</b></p> <p><b>AM is the adjusted amount;</b></p> <p><b>A is the amount to be adjusted;</b></p> <p><b>AWWY is the average weekly wage for the year in which the adjustment is being made; and</b></p> <p><b>AWWPY is the average weekly wage for the previous year.</b></p> <p><b>(2) If the ratio between the average weekly wage for the current year and the average weekly wage for the previous year includes more than three decimals, only the first three digits are to be retained, and the third digit is to be increased by one unit if the fourth digit is greater than four.</b></p> <p><b>(3) After adjusting pursuant to this section, the adjusted amount must be rounded to the nearest dollar.</b></p> <p><b>(4) The board shall publish all adjusted amounts in any manner that the board considers likely to bring the adjusted amounts to the attention of the public.</b></p>	<p><b>AWWPY is the average weekly wage for the previous year.</b></p> <p><b>(1.1) If the ratio between the average weekly wage for the current year and the average weekly wage for the previous year is less than 1.0, the average weekly wage will be the average weekly wage of the previous year.</b></p> <p><b>(2) If the ratio between the average weekly wage for the current year and the average weekly wage for the previous year includes more than three decimals, only the first three digits are to be retained, and the third digit is to be increased by one unit if the fourth digit is greater than four.</b></p> <p><b>(3) After adjusting pursuant to this section, the adjusted amount must be rounded to the nearest dollar.</b></p> <p><b>(4) The board shall publish all adjusted amounts in any manner that the board considers likely to bring the adjusted amounts to the attention of the public.</b></p>
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**Issue: Transporting a body outside of Canada** - The Act has a provision (for fatality claims) for transporting the body of the deceased worker, but limits the transport to "within Canada". With increasing populations of immigrants in our province, we are proposing that this language be amended to provide transportation outside of Canada where it would be the request of the family of the deceased.



<i>Current language</i>	<i>Proposed change</i>
<p><b>80 Compensation is payable in accordance with sections 81 to 86 to the dependents of a worker who died or who dies after January 1, 1983 as a result of the worker's injury</b></p> <p><b>(2)b. if the death of a worker occurred at a place other than the worker's usual place of residence and, in the opinion of the board, transportation of the body to the usual place of residence is desirable, the necessary expenses of that transportation <i>within Canada</i></b></p>	<p><b>80 Compensation is payable in accordance with sections 81 to 86 to the dependents of a worker who died or who dies after January 1, 1983 as a result of the worker's injury</b></p> <p><b>(2)b. if the death of a worker occurred at a place other than the worker's usual place of residence and, in the opinion of the board, transportation of the body to the usual place of residence is desirable, the necessary expenses of that transportation.</b></p>

**Issue: File Release (Employer Access to Claim information)** – Section 174 of the WCB Act requires a cumbersome and time-consuming process that results in delays decisions which can cause friction between injured workers, employers and the WCB. This friction can negatively impact an injured workers rehabilitation and return-to-work which is not good for workers or employers. These delays can add additional costs to the system and in some cases re-traumatize workers by having to unnecessarily review their file.

We believe the back and forth process could be eliminated with a legislative change. This could eliminate up-to 30 days per claim from the file release process by not having to go back and forth between the worker and the employer. The appropriate training, processes and technology could be implemented to support high quality processes that meet legislative requirements. This approach is being done in other jurisdictions without issue.

<i>Current language</i>	<i>Proposed change</i>
<p><b>Employer's access to information 174 (Act)</b></p> <p><b>(1) In this section, "employer's representative" means a person authorized in writing by an employer to represent that employer.</b></p> <p><b>(2) If an employer has requested a reconsideration of or applied for a review of a decision made pursuant to this Act with respect to a worker's claim for compensation, notwithstanding that the employer is not a party to the reconsideration or review, the board may on written request, in accordance with this section, grant the employer or the employer's representative access to the information that the board used to make its decision with respect to: (a) the facts of the situation in which the injury occurred; or (b) the percentage of the cost of compensation that has been assigned by the board to the injury cost record of that employer with respect to the injury of the worker arising out of and in the course of the worker's employment with the employer. 75 WORKERS' COMPENSATION, 2013 c. W-17.11</b></p> <p><b>(3) The person receiving the information pursuant to subsection (2) shall use that information only for the purposes of the reconsideration or review.</b></p>	<p>Amend this section of the Act (sub sections 4- 10)</p> <p>WCB is responsible for complying with existing privacy legislation and not disclosing any unnecessary personal medical information.</p> <p>Workers are to be notified of request from employers and are entitled to copies of documentation sent to the employer (if they request it)</p>



<p>(4) <i>If a request is made pursuant to subsection (2), the board shall: (a) notify the worker or the worker’s representative of the request and of the information that it will grant access to; and (b) inform the worker or the worker’s representative that he or she may make an objection to the release of the information within the period specified in the notice.</i></p> <p>(5) <i>On the expiration of the period mentioned in clause (4)(b), the board shall, after consideration of any objections: (a) decide what information it will grant the employer or the employer’s representative access to; and (b) notify the worker or the worker’s representative in writing of its decision.</i></p> <p>(6) <i>The notice required pursuant to clause (5)(b) must be served by registered mail or any other means prescribed in the regulations, and, if mailed, the notice is deemed to have been received five business days after it is mailed.</i></p> <p>(7) <i>Within 15 business days after the date on which the notice pursuant to subsection (6) is received, the worker may request the board to reconsider its decision made pursuant to subsection (5).</i></p> <p>(8) <i>The board shall not grant the employer or the employer’s representative access to any information until the expiration of the period allowed for a request pursuant to subsection (7) or the determination of the request, whichever is later.</i></p> <p>(9) <i>The board shall inform the worker or the worker’s representative of all information it has granted an employer or employer’s representative access to pursuant to this section.</i></p> <p>(10) <i>An employer may request the board to reconsider its decision with respect to the information the board has granted access to within 15 business days after the date of that decision. 2013, c.W-17.11, s.174.</i></p>	
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**Issue: Increasing borrowing limits of Board** – The current limit is based on previous needs when \$25 million was sufficient. Given our current operating environment, the need is likely closer to \$50 million. We think proposing \$75 million should provide us with room for future needs while not exposing the board to undue levels of risk.

<i>Current language</i>	<i>Proposed change</i>
<i>118(2) The aggregate of the amounts borrowed by the board must not exceed \$25,000,000</i>	<i>118(2) The aggregate of the amounts borrowed by the board must not exceed <b>\$75,000,000</b></i>

**Issue: Correct reference error: WCB General Regulations 1985**

<i>Current language</i>	<i>Proposed change</i>
<i>Commencing business 4(1) An employer who commences or recommences business shall, within 30 days of the date he or she commences or recommences business, submit the statement required by section 124 of the Act.</i>	<i>Commencing business 4(1) An employer who commences or recommences business shall, within 30 days of the date he or she commences or recommences business, submit the statement required by section <b>122</b> of the Act.</i>

**Psychological Injuries (presumptive clause)** – We have a recent court ruling that calls into question our current practice of applying this clause. We suggest that the legislation should be reviewed to add clarity, but the changes would require consultation with internal and external parties to gather particulars. We propose that the legislation should be clearer that for psychological injuries, as it is for all injuries, the WCB has an



obligation to confirm: a) there is an injury (Section 26) and; b) in course of, and out of employment (Section 27). We see these two requirements as foundational to the purpose of WCB. Clearer legislation requiring WCB to not only confirm an injury but then retroactively confirm it occurred in the course of and out of employment would ensure there are both immediate supports for these people claiming a work-related psychological injury but would not require ongoing support from WCB if the facts do not support acceptance. We believe this clarity would help prevent frustration due to a misunderstanding by some customers that Section 26 and 27 do not apply to Section 28.

<b>Current language</b>	<b>Proposed change</b>
<p><b>28.1(1) In this section:</b></p> <p><b>(a) “psychological injury” means a psychological injury, including post-traumatic stress disorder, as described in the edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association that is prescribed in the regulations</b></p> <p><b>(b) “worker” means a person who works and:</b></p> <p><b>(i) is exposed to a traumatic event; or</b></p> <p><b>(ii) Is in an occupation that is prescribed in the regulations</b></p> <p><b>(2) Unless the contrary is proven, if a worker or former worker is diagnosed with a psychological injury by a psychiatrist or psychologist, that injury is presumed to be an injury that arose out of and in the course of the worker’s employment.</b></p>	<p>Consider adding a new subsection to Section 27 that clearly states it is WCB’s “obligation” to confirm there is in an injury (Section 26) and that the injury arose out of an in the course of employment (Section 27 (1)(2)) apply to psychological injuries (Section 28).</p>

Sincerely,



Phil Germain  
 Chief Executive Officer  
 Saskatchewan Workers’ Compensation Board

