



United Nurses of Alberta

UNA submission to the Alberta Government review of the Alberta Workers' Compensation Board

July 14, 2016

Thank you for the opportunity to take part in the Alberta Government's review of the Workers' Compensation system in Alberta. This short summary outlines key changes to governance, effectiveness, principles and policies United Nurses of Alberta believes are essential to ensuring the system's sustainability into the future.

UNA believes the Workers' Compensation system has gone badly astray in Alberta over the past 24 years. More than 85 per cent of Alberta's workers are covered by Workers' Compensation, but we have now reached a point where the Workers' Compensation Board is no longer properly delivering on the promise implicit in the historic compromise of 1913, which led to the creation of the Workers' Compensation system throughout Canada. That, put simply, is that Workers' Compensation guarantees medical care and income replacement for workers injured in the course of their jobs in exchange for their giving up the right to sue their employer for negligence.

Unfortunately, since 1991, with government encouragement, the WCB has been acting as if it were a profit driven private insurance company. Until that year, Alberta's legislation focused on workers' rights and worked very well. Since then, however, under the guise of "balancing" worker and employer rights, employers have been given the right to "manage" claims, including the right to challenge them. This, in practice has meant many objections and other roadblocks to legitimate claims.

The WCB has also adopted the pernicious policy of allowing employers to receive incentives in the form of discounts to their WCB premiums if they report low numbers of claims. While intended to encourage safety consciousness, this policy has led to a perverse incentive for employers to discourage employees from reporting workplace injuries that do not seem serious at the time they take place. Such injuries, however, may have long-term consequences and need to be reported immediately. As a result of this policy, employers receive significant rebate cheques and the WCB

has run large surpluses – which in turn have become grounds for calls to further reduce employer contributions. In 2014, for example, the Alberta WCB reported a total operating surplus of \$792.5 million.

With the growth of the private insurance mindset, employers have increasingly treated Workers' Compensation claimants as if they were malingerers or cheats. The result of this corporate-style operational philosophy of assuming claimants are dishonest and prioritizing cuts to employer costs over the wellbeing of injured workers has been to degrade the principles of no-fault insurance, collective liability among all employers, independent administration of the system at arm's length from the government, prompt income replacement for injured workers, and exclusive jurisdiction for the Board.

This trend must be reversed. Unfortunately, we can no longer expect the Board with its deeply entrenched corporate values to reform itself. Positive change can only result from a new legislative mandate.

Accordingly, United Nurses of Alberta recommends implementation of the following 17 measures:

1. Amend the Alberta Workers' Compensation Act to fully return to the no-fault, prompt-income-replacement model that served Alberta working people well for 78 years.
2. Restore the original vision of the Alberta Workers' Compensation Board so that its guiding principle is the welfare of injured workers, not the reduction of employer costs by denying benefits or forcing injured workers to return to work too quickly.
3. Amend the Act to require the WCB governing Board to be appointed by the Legislature, not the cabinet.
4. Include in the amended legislation the creation of the position of WCB Ombudsman completely independent of the WCB Executive and with the power to compel the Executive to respond when a ruling goes against the WCB appeals process.
5. Ensure through amendments to the legislation that the presumptive assumption of Post Traumatic Stress Disorder injuries is extended to include nurses, jail guards, social workers and all other front-line first-responders in the health care system.
6. Amend the Act to extend the definition of compensable injuries to include cumulative work-related stress, not just traumatic stress.
7. End the practice of cash incentives to employers for low accident-reporting rates, which inherently includes a perverse incentive to discourage injured workers from reporting their injuries.

8. Explicitly restore to the WCB the mandate to promote the well-understood connection between injury prevention and Occupational Health & Safety programs.
9. End the cap on compensation or raise it appropriately to reflect the real wages paid to workers in Alberta, a particular concern to skilled workers such as trades people and nurses.
10. Include provisions to properly monitor the return-to-work process and ensure an injured worker's own physician is properly consulted. This change should include a requirement to share with the injured worker's physician any medical documents and images such as MRI, CT scan and X-ray reports.
11. Discourage the practice of using approval or rejection of appeals as a measure of job performance for WCB Case Officers assigned to handle first-level appeals.
12. Maintain the current system of accepting first-level appeals in verbal format. Note that in the past the WCB Executive has attempted to require all Level 1 appeals to be submitted in written form, a move that would effectively deny certain populations access to Workers' Compensation.
13. Maintain the physical separation of WCB appeal advocates from other WCB staff in office premises that are remote from one another, to prevent undue pressure to deny appeals.
14. Enable WCB the ability to enforce workplace accommodation for employees returning to work.
15. Ensure WCB surgical and other services are maintained in the public health care sector.
16. Adjust wage rates paid to employees under WCB to reflect current collective agreement salary grids, not rates from the date of the accident.
17. Amend the WCB Regulation to include employer-paid pension and extended health benefits in the calculation of net earnings.