

February 14, 2017

Honourable Cliff Cullen
Minister of Growth, Enterprise and Trade
Room 358, 450 Broadway
Winnipeg, Manitoba
R3C 1S4

RE: Workers Compensation Act Review

Dear Minister Cullen:

Founded in 1873, The Chamber is Winnipeg's largest business organization, dedicated to fostering an environment in which business, and all Manitobans, can prosper. The Chamber's vision is for Winnipeg to be a competitive, technologically innovative city with a skilled labour force and modern infrastructure to support existing and emerging industries, and a city with a bright future.

Through its membership, The Chamber identifies and provides valuable insight into currently held perceptions and concerns for Manitoba's future, as well as potential solutions. We are therefore pleased to present this submission on behalf of our greater than 2,000 member companies that employ approximately 90,000 individuals in our community.

As a founding member of the Manitoba Employers Council (MEC), The Winnipeg Chamber of Commerce adds its voice and support to the MEC recommendations outlined in the June 9, 2016 correspondence from MEC Chair William Gardner. Specifically, The Chamber recommends:

1. The Review Commission should examine the 2001 Consensus Report to consider which of the recommendations have been implemented and with what effect.
2. As recommended in the 2001 Consensus Report, Workplace Safety and Health should not be funded by the Workers Compensation Board of Manitoba (WCB).
3. The determination of the 2001 Consensus Report regarding non-compulsory industries being allowed the freedom to remain so should be confirmed.
4. All proposals for change must be fully costed.
5. Value for money is an essential factor in terms of evaluating the effectiveness of the WCB system. As such, this should be considered with a view to increasing value for stakeholders.
6. The funding model should be considered. At present, the WCB is funded at approximately 130%, the highest in the country.
7. The absence of a cap on earnings should be considered. This was removed as part of the 2001 Consensus Report. However, it is noted that every other insurance scheme in the country, including Manitoba Public Insurance, has a cap on earnings.
8. Stress is a major issue. The WCB should continue to take a very careful approach with respect to allowing claims for stress and other mental health issues. This would include ensuring that only the diagnosis of qualified practitioners be accepted, which in cases involving mental health would mean a psychiatrist or PhD psychologist who is qualified in the particular area. Further, a list of qualified professionals who are acceptable both to Management and Labour should be developed and then utilized by WCB to advise on applicable claims.

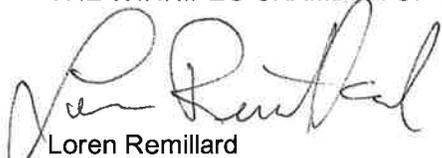
9. The Post-Traumatic Stress Disorder (PTSD) presumption should be implemented in a manner that is logical and rational. In particular, a diagnosis of PTSD should only be accepted from a qualified practitioner, namely a psychiatrist or a PhD psychologist. Similar expertise must exist within WCB. It is suggested that a pool of qualified practitioners be developed within WCB who have received the support of Labour and Management. This will add credibility to recommendations made by them.
10. Provisions regarding the obligation to reinstate injured workers and the prohibition against retaliation should be revisited. While well-intended, these provisions are cumbersome and expensive. Employees who present with performance or discipline problems use the legislation as a shield. Duplication of proceedings, particularly parallel complaints to Workplace Safety and Health and/or the Human Rights Commission can arise on the same set of facts.

Representatives of the WCB or Workplace Safety and Health lack the training and expertise to make decisions regarding the validity of employer decisions which affect the employment status of an injured or aggrieved worker. Accordingly, a streamlined process should be developed whereby complaints regarding failure to reinstate or alleged discriminatory action arising from the *Workers Compensation Act* or the *Workplace Safety and Health Act* should be referred directly to the Manitoba Labour Board for decision, after a vetting process to screen out non-meritorious complaints.

11. An Employer Advocate Office should be created. Manitoba is one of four provinces without employer advocates (MB, SK, AB, QC). While employer advocates can be helpful to employers, they can also improve the quality of service for employees as well. Many small businesses have very little interaction with the WCB system and require assistance navigating it, making the office a valuable resource. Most employer advocate offices provide assistance and advice without a direct fee on claims management. While this service could conceivably be covered without a dedicated office, employers – and particularly small businesses without as many legal or financial resources – would stand to benefit from knowledge of where services like these are available.
12. The speed at which an injured worker is sent for diagnostic tests and referred to a specialist should continue to be addressed with a view to reducing wait times to zero.
13. The growing consensus from Occupational Health Specialists on the value of keeping injured workers at work as much as possible should be considered with appropriate recommendations for a stay-at-work strategy.

On behalf of The Winnipeg Chamber of Commerce, we extend our thanks and appreciation for the opportunity to bring forward our members' voice on such a critical piece of legislation shaping the business climate in Manitoba.

Sincerely,
THE WINNIPEG CHAMBER OF COMMERCE



Loren Remillard
President & CEO