



July 13, 2016

(delivered via wcbreview@gov.ab.ca)

WCB Review Panel
c/o Service Alberta Mailroom
11th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta T5J 4L5

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Dear Review Panelists:

We appreciate the opportunity to provide our comments respecting some specific segments of the Workers' Compensation Board Review agenda. Construction Labour Relations – An Alberta Association (CLR) has contributed to many initiatives focused on health and safety and on rehabilitation and return to work. CLR has partnered with many stakeholders, including the Construction Owners Association of Alberta and its broad-based constituency, in developing, implementing, administering and refining best practices, including modified work programs, our audiometric program, our Construction Employee and Family Assistance Program, our Case Management and Rapid Site Access Program, the Canadian Model for Providing a Safe Workplace and a series of supervisor training and mentoring programs. Although our core activities are in respect to labour relations, safety is a value that guides much of what we do. We are one of the few employers' organizations that holds a SECOR.

While we are pleased to be able to offer some comments in support of your review, we want them placed in context: Alberta's Workers' Compensation system is not broken. Indeed, in our view, and from the perspectives of many of our members with pan-Canadian and International operations, Alberta's system has been managed well through the tumultuous cycles that characterize our Province. The WCB is to be congratulated for its governance.

In the context of refining an exemplary system, we make the following comments and suggestions:

- 1 There have been a number of files addressing workers whose employment has been terminated for cause while on modified work. In our view (and in the view of counsel, whose opinions have been shared with the WCB), the Board's application of the no-fault principles to the continuation of benefits was in error, and the Appeals Commission has properly ruled that workers make decisions and conduct themselves in ways that terminate their own employment. The no-fault principles are appropriately applied to decisions respecting the eligibility for benefits, but should not be applied to the continuation of benefits irrespective of claimants' decisions, behaviour and misconduct. The WCB should not be in a position or have status to seek judicial review of its own Appeals Commission. (We understand that a number of applications for judicial review have been discontinued.)
- 2 We fully understand the fiduciary duties of the members of the WCB. In our view, however, those duties can be exercised with more confidence and with full understanding

- of the broad range of industry interests if the process and considerations for appointing members was more clear, there was more outreach from and consultation by members with the employer, worker and public communities the Board serves, and more access to members of the Board to ensure, as they face difficult policy and disbursement decisions, they fully understand the communities' views. There are opportunities for the Board to partner to improve health and safety, to invest surpluses in injury reduction and management and in research, and to better educate stakeholders towards improved health and safety outcomes.
- 3 In part related to 2, there can be more attention to "lead indicators" in seeking better health and safety performance. Among these is the *MySafetySurvey* application developed by Dr. Louis Francescutti and his team. This powerful tool, designed to benefit employees and employers across Alberta's industries and sectors, is worthy of support through WCB levies. The tool can give immediate feedback to workers relative to the risks to which they are exposed in their particular workplaces. The tool can inform employers of the perceptions of their workers (collectively), facilitate employers' selections of specific ways to improve the safety of their workplaces, and afford employers measures of the effects of the safety programs in which they invest in terms of altered perceptions of their employees.
 - 4 The interfaces between the WCB, workers and employers should be re-examined. There are opportunities to ensure that everyone involved in interactions with the WCB better understands their obligations and the considerations that will guide decisions affecting them. There can be better access to advocates to assist them in ensuring the positions and interests of affected workers and employers are heard before decisions are taken.
 - 5 In light of the breadth of the issues to be addressed in the review and the opportunity to refine the Workers' Compensation system so that it can function with stability and certainty for another decade or more, we would be more confident if the review period was extended, if more weight was placed on direct submissions and consultation processes than the workbook and anonymous online processes, and, following a first stage of information gathering, if the Review Panel afforded parties the opportunity to comment on the submissions of others and the directions the Panel is then considering. We do not understand reasons for the compressed timetable and limited opportunities for submissions and consultations that have been chosen for this important review.

Thank you for your consideration of our comments and suggestions. Representatives of CLR would welcome an opportunity to meet with the Panel to clarify our submission, and to offer informed comment on the submissions of others.

Sincerely,
**Construction Labour Relations –
An Alberta Association**



R. Neil Tidsbury, President