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## Opinio 6

Respondent 9010371

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### 1. The WCB Review website does not automatically gather personal or identifying information.

Submissions from organizations may be made publicly available on the WCB Review website. Submissions from individuals will not be made publicly available.

The information collected will be used for the purpose of assisting the WCB Review Panel, the WCB Review Secretariat and the Government of Alberta in the review of the workers' compensation system. Any information you provide during this review may be summarized, used, disclosed or published at the discretion of the Government of Alberta in accordance with Freedom of Information and Protection of Privacy Act (FOIP Act).

Any personal information you provide is collected under the authority of section 33(c) of the FOIP Act and the use and disclosure of your personal information will be managed in accordance with the FOIP Act.

If you have any questions, please contact the WCB Review Secretariat by email at [wcbreview@gov.ab.ca](mailto:wcbreview@gov.ab.ca) or 780-644-8498.

1. I Agree

7/12/16 5:18:00 PM MDT

### 2. DETERMINING A CLAIM'S ELIGIBILITY FOR BENEFITS

To be considered eligible for payment of benefits, an accident must meet two conditions: it must arise out of employment, and it must occur in the course of employment.

For many claims, it is relatively straightforward to determine if the accident arose out of employment (for example, if a worker falls from a ladder while performing their duties at work and breaks their arm.)

In some instances, it can be more challenging to determine that a worker's injury or illness arose out of employment. For example, a person may have a heart attack while at work, but that does not necessarily mean the heart attack arose out of employment.

For these kinds of situations, the WCB looks at several factors to determine causation of the worker's injury or illness (such as the worker's medical diagnosis, their conditions and duties at work, and personal factors such as pre-existing conditions.)

1. Please provide your insights below on how eligibility for workers' compensation in complex claims should be determined. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

The treating physician, not the WCB Medical Consultant, should have the ranking opinion.

7/12/16 5:18:55 PM MDT

### 3. PRESUMPTIONS ABOUT INJURIES AND ILLNESSES

Workers' compensation legislation in Alberta contains a number of presumptions about occupational diseases and workers in certain occupations and industries.

- Many presumptions are set out in the Workers' Compensation Regulations. If a worker suffers an occupational disease, and was employed in an industry listed in the regulation within the preceding 12 months, then the disease is presumed to have been caused by employment, unless the contrary is shown.
- In 2003, the Workers' Compensation Act was amended to include a specific presumption relating to firefighters and certain types of cancers.
- In 2005, the Act was amended to include a similar presumption related to myocardial infarctions suffered by firefighters when occurring within 24 hours after attendance at an emergency response.
- In 2012, the Act was amended to provide that if a first responder is diagnosed with post-traumatic stress disorder (PTSD) then it is presumed the PTSD arose out of and occurred in the course of the first responder's employment in response to a traumatic event or series of traumatic events. First responders are defined as police officers appointed under provincial legislation, firefighters (both full and part-time), emergency medical technicians and peace officers who are authorized to use the title "Sheriff".

Some suggest that the entire scope of presumptive diseases should be expanded, to better reflect linkages that exist between certain occupations and certain injuries and illnesses. Others feel evidence does not support the assumption that it is the type of occupation that should presume coverage, but rather that coverage should be based on the incident and whether it was the cause of the injury.

2. Please provide your insights below on expanding the scope of presumptive diseases. Please elaborate on occupations and injuries/illnesses where you think presumptions should be expanded (or reduced). [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Many workers would be better off if the WCB did not have jurisdiction. Therefore, it appears that the injured worker should have some ability to elect for coverage. Please remember that, although the WCB has touted the low rejection rate of claims, often an injured worker's real problems begin once the claim is accepted.

7/12/16 5:21:25 PM MDT

### 4. Psychiatric and psychological injuries (including chronic onset stress) can be challenging from a claims standpoint, because there can be many different causes of these conditions (e.g., both work-related and non-work-related causes). This makes it challenging to determine if the injury arose out of and in the course of employment.

The state of policy today represents an evolution from the past. Not long ago, the WCB generally did not cover psychological and psychiatric injuries. Over time, workers' compensation systems have come to cover these injuries but struggle with these types of cases.

Presently, the WCB will consider a claim for psychiatric or psychological injury when there is a confirmed psychological or psychiatric diagnosis as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and the condition results from one of the following:

- Organic brain damage,
- An emotional reaction to a work-related physical injury,
- An emotional reaction to a work-related treatment process,
- Traumatic onset psychological injury or stress, or
- Chronic onset psychological injury or stress

In the years to come, these types of cases are likely to continue to be challenging not only in terms of determining eligibility, but also in terms of return to work and vocational rehabilitation.

3. In your experience, what are some concerns that arise when it comes to claims around psychiatric and psychological injuries? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

My main concern is, once again, that the WCB employs Medical Consultants who routinely give an opinion contrary to the treating physician and that is binding on the Case Manager or Adjudicator. This must be remedied.

7/12/16 5:23:17 PM MDT

#### 5. CLAIMS INVOLVING PRE-EXISTING CONDITIONS

The WCB's current policy provides that where a workplace injury causes a pre existing condition to deteriorate or become symptomatic, the injured worker is eligible for payment of benefits.

- Medical evidence must show that the accident caused some worsening of the worker's pre-existing condition, at least on a temporary basis.
- It is not a requirement for the worker to have sustained a permanent clinical impairment as a result of the injury to qualify for benefits.
- Benefits for the worker continue until the worker recovers to the point that their remaining disability is due entirely to the pre-existing condition or unrelated health problem.

4. Please provide your views on some of the issues and concerns that arise in claims involving pre-existing conditions. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

The policy reads much more nicely than many claim files.

7/12/16 5:24:06 PM MDT

#### 6. CLAIMS MANAGEMENT AND SERVICE DELIVERY

There are many views about the service experiences (i.e., quality, effectiveness, timeliness) that workers and employers currently have when they interact with the WCB.

5. Please provide your comments on the timeliness and effectiveness of the WCB claims process. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

The telephone conversations between injured workers and the Customer Service department, should always be recorded. Some injured workers do not like it, but it actually protects both parties, and is common in other areas of society.

7/12/16 5:25:42 PM MDT

7. When a person in Alberta has concerns about the way their claim is being managed they do not have a single window through which to raise these concerns. Instead, they can raise their concerns through the Alberta Ombudsman, the Office of the Information and Privacy Commissioner of Alberta, the Alberta Human Rights Commission, their MLA, and/or the Minister of Labour, depending on the nature of their concerns.

The workers' compensation organizations in Saskatchewan, Manitoba, and Ontario each have a Fair Practices Officer that investigates service delivery complaints and attempts to resolve them. The Fair Practices Officer is a WCB employee who examines, investigates and reports on trends and potential systemic problems to the board of the organization. The Fair Practices Officer cannot change a WCB decision.

In New Brunswick, the Issues Resolution Office offers a secondary review of a claims decision and also acts as an ombudsman to help resolve service issues. The Issues Resolution Office reports to the WorkSafeNB's corporate secretary and general counsel.

6. What are your views about creating a mechanism in Alberta's workers' compensation system that would provide a single window for people to raise concerns about WCB claims management and service delivery? If you support this concept, what could it look like? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The Ombudsman's office has not been effective in this role. Overworked, and only available after the appeal process. In most cases, the damage is done. Getting money a year and a half late is useless. And no interest is paid! In Alberta.

7/12/16 5:31:28 PM MDT

#### 8. MEDICAL SERVICES

The timely communication of accurate medical information can impact decisions about a worker's claim, how their claim moves through the WCB process, and even the worker's income. Physicians and other health providers are therefore key partners in the workers' compensation system. There are many views about the strength of these partnerships.

7. Please describe your views on the willingness of physicians and other health professionals to interact with the workers' compensation system on behalf of their patients. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Many physicians and other health care providers do not wish to deal with the WCB. They find WCB staff argumentative, disrespectful, and the whole process is abusive in the opinion of many, who may complete reporting reluctantly. Not a confidence builder for the person who falls off a scaffold and has a Case Manager who wishes to be promoted, blame the ongoing back problems on a pre-existing condition the worker was completely unaware of and was working with just fine.

7/12/16 5:36:34 PM MDT

9. The WCB negotiates with physicians and other treatment providers, who have interest and expertise in work-related injuries and issues, for access to their services. This sometimes enables the WCB to have injured workers tested and treated faster than these services could be accessed in the publicly-funded health system. The WCB pays these service providers directly for these services. The benefit to this is the reduced time it takes injured workers to be ready for employment, and it reduces employer costs.

8. What are your views on the WCB's current process for referring injured workers for medical treatment or services? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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It can work, but many injured workers do not trust such a cosy relationship. Experiences at Columbia and CBI are predictable, and predetermined, apparently.

7/12/16 5:37:54 PM MDT

#### 10. RESOLVING DISAGREEMENTS ABOUT MEDICAL ISSUES IN A CLAIM

There can sometimes be disagreements about the medical issues in a worker's claim. These can affect a worker's benefits.

9. How do disagreements about medical issues impact the relationships that physicians and other health

providers have with the workers' compensation system? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Let the treating physician give an opinion, do not hire a department full of paid consultants, who know where their bread is buttered, to argue the matter.

7/12/16 5:39:03 PM MDT

11. In Alberta's workers' compensation system, Medical Panels are used to provide an impartial, independent decision-making process to resolve bona fide conflicts of medical opinions. For example, the Medical Panel can resolve medical disputes between a worker's physician and a WCB medical consultant. The findings of a Medical Panel are binding on the WCB or the Appeals Commission for Alberta Workers' Compensation (Appeals Commission).

Medical Panels are composed of three physician members who are recognized as experts in their field and who are independent from the WCB.

Currently, only the WCB or the Appeals Commission can request a Medical Panel review. Some have suggested there would be value in allowing others (such as workers and employers) to also request a Medical Panel review.

10. In your view, who should be able to request a Medical Panel review? Why? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

The Medical Panel review process has been a lengthy and costly and confusing disaster. Scrap it.

7/12/16 5:39:41 PM MDT

12. The Medical Panel Office performs an adjudicative function, but there are suggestions it could play other roles as well. For example, some say it might be valuable for the Medical Panel Office to provide educational or consultative roles with respect to the WCB's medical consultants.

11. What other roles, if any, could the Medical Panel Office play in resolving medical conflicts? Please describe. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Medical Panels have not demonstrated a great deal of common sense, which is what the process is really lacking.

7/12/16 5:40:27 PM MDT

13. RETURN TO FULL OR MODIFIED DUTIES AT ORIGINAL EMPLOYER

Ideally, when a worker is capable of doing so, they can go back to their original employer (i.e., their employer on the date of accident). This might entail returning with modified duties based on the worker's abilities, which may be different than they were on the date of accident.

There is currently no requirement under Alberta's Workers' Compensation Act for an employer to return an injured worker to the workplace.

Under Alberta's human rights legislation employers have a duty to accommodate workers with disabilities, unless the accommodation imposes undue hardship on the employer. Alberta's WCB does not handle disagreements or complaints about non-compliance with human rights legislation. Worker concerns about an employer's failure to accommodate, or employer concerns about undue hardship, must be filed separately with the Alberta Human Rights Commission.

Several other jurisdictions have provisions in their workers' compensation legislation that require an employer or worker to cooperate with return to work efforts.

12. Should the Workers' Compensation Act contain a provision that influences or compels an employer or worker to cooperate on return to work? Why or why not? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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It is difficult, because an injured worker, even if an employer were required to take her back, is often not accepted in that workplace on the same basis as prior to the injury. And, really, are we doing anybody a favour mandating a construction company to rehire a worker with a broken back or missing foot? Get another employer into the picture.

7/12/16 5:42:31 PM MDT

14. 13. What challenges do employers face in returning an employee to work? If there are challenges, what additional supports do employers need from the WCB? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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What employers really need from the WCB are real time, reasonable decisions.

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15. NO RETURN TO ORIGINAL EMPLOYER

When an injured worker cannot return to their pre-accident position, or where there is a permanent disability requiring a work modification, the WCB may provide Vocational Rehabilitation Services. These services are aimed at helping injured workers develop the skills and capabilities that will assist them to reach a state of employability. Vocational Rehabilitation Services can take a varying amount of time to complete, depending on individual circumstances.

The WCB will assist a worker in assessing skills and abilities within their anticipated work restrictions and will help them develop a long-term goal, upon which a vocational rehabilitation plan will be based. The goal is often set with an aim to maximize the worker's earnings potential. Once the goal and the plan are identified, the worker will start 12 weeks of assisted job search, unless other skills or training opportunities have been identified. Through the program the worker can access various services, such as short-term skills training or assistance with developing a resume. Potential earnings in the job are assessed using a survey methodology (labour market research conducted by an independent firm). These can be used to "deem" the worker's earnings (and adjust their benefits), if the worker remains unemployed.

People have many views about the effectiveness of Vocational Rehabilitation Services in helping prepare workers to re-enter the workforce.

14. In your view, do Vocational Rehabilitation Services provide injured workers with meaningful rehabilitation that prepares them for employment? Please explain. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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No. VR is difficult, and although it is cost effective in the long term, the WCB does not think long term.

7/12/16 5:44:39 PM MDT

16. OTHER THOUGHTS YOU MAY HAVE

15. Please provide any other comments you have relating to the WCB claims process. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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I am aware of at least one employer who went and bought additional coverage to cover his employees after the WCB turned down what the employer said was a "perfectly acceptable claim" from a worker who had not missed a day in 24 years. Construction work. He had to pay WCB coverage as well, of course, but said, I have to have these people covered.

7/12/16 5:47:29 PM MDT

#### 17. LOSS OF EARNINGS

If a worker misses time from work beyond the day of the accident (a lost time claim), an injured worker receives monetary benefits based on their earnings as of the date of accident. These payments are non-taxable.

In 2016, injured workers eligible for temporary total disability (TTD) benefits receive 90% of their net earnings, up to a maximum insurable earning of \$98,700 per year. The 2016 maximum insurable earnings amount translates into weekly compensation payments of \$1,225.61.

There are questions about the WCB's current limits on insurable earnings. Some people have suggested that the current limits may be too low, given that wages in several occupations can be much higher than the current maximums. Others have suggested that the current limits should remain unchanged, but that workers should have the option to purchase additional coverage from the WCB for amounts above the current limits.

16. Please comment on whether the current limits on insurable earnings should be changed. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Workers should probably have options to purchase additional coverage, and also from other sources.

7/12/16 5:48:19 PM MDT

18. 17. Should an option be made available for workers to obtain additional coverage through the WCB? Why or why not? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Probably a bad buy.

7/12/16 5:48:44 PM MDT

#### 19. BENEFITS ADJUSTMENTS

Benefits can be adjusted through cost-of-living adjustments that are calculated by the WCB using a specific formula. The WCB Board of Directors approves the adjustments, which are effective January 1 of each year.

The WCB's cost-of-living adjustments are calculated on the basis of the worker's earnings on the date of accident. The adjustments do not account for earnings increases the worker may have received due to career progression.

Some suggest that benefit adjustments should take a worker's potential earnings as well as career progression into account. Others say this would not be practical, since it cannot be assumed a worker would have progressed in their career or received earnings increases.

18. Please comment on whether WCB benefits should recognize career progression. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Potential earnings are speculative.

7/12/16 5:49:11 PM MDT

## 20. DEEMING EARNINGS

Based on the goal that is set for a worker as part of Vocational Rehabilitation Services, the WCB will assess potential earnings in the job using a survey methodology (labour market research conducted by an independent firm). Select employers within each community where an occupation exists are surveyed to determine what they would pay employees hired into these occupations and how those earnings would increase to reflect growing experience for the first five years.

If a worker remains unemployed, but the WCB determines they are fit and ready to work in a potential position, the worker will be deemed capable of performing this work and earning this income. The WCB adjusts the benefits paid to the worker, to reflect the income that the worker is deemed capable of earning. The deemed earnings incorporate increases based on career progression that the worker would theoretically have in the deemed job.

Some people have suggested that this deeming process may not result in successful employment outcomes for injured workers, because the rehabilitation services provided may not have a connection to a worker's employment history nor be based on work realistically available in the economy. Others have suggested that the deeming process makes sense, since it is not always viable for a worker to return to their original position or secure employment when they are ready.

19. Please comment on the WCB's use of "deeming" earnings for those workers who are not able to return to work with their original employer. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The deeming process has been abused. Especially when applied retroactively. It looks like, and is, designed to save money.

7/12/16 5:50:20 PM MDT

## 21. NON-COMPLIANCE AND EFFECT ON BENEFITS

Where the WCB considers a worker to be non-compliant, the WCB currently has the authority to suspend payment of the worker's benefits.

The WCB can consider a worker to be non-compliant in a number of circumstances.

One circumstance is if an injured worker refuses to participate or cooperate with the WCB's directions regarding medical treatment. This can happen for various reasons. The worker might not agree with the treatment plan; they may wish to see a provider who is not on the WCB's approved list; or they may wish to explore other treatment options (e.g., acupuncture versus surgery).

Another circumstance is when a worker refuses to return to work even though the WCB has deemed them fit to return to full or modified duties. This too can happen for various reasons. For instance, the worker's personal family doctor might disagree and advise them they should not yet return to work.

20. When circumstances arise that may be considered non-compliant (e.g., refusal to participate in medical treatment, refusal of return to work, etc.), what actions should WCB consider and what should happen with a worker? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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It would look more even handed, and be more even handed, to accept the opinion of the treating physician.



7/12/16 5:51:59 PM MDT

**22. OTHER THOUGHTS YOU MAY HAVE**

21. Please provide any other comments you have relating to the WCB benefits process. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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I have never understood why an injured worker should automatically be penalized in the amount of 10% of her net pay, when somebody drops a brick on her on the work site.

7/12/16 5:53:07 PM MDT

**23. THE DISPUTE RESOLUTION AND DECISION REVIEW BODY**

A person with a direct interest in an adjudicative decision or an employer account decision can request an internal review of that decision by the Dispute Resolution and Decision Review Body (DRDRB). Members of the DRDRB are WCB employees.

The DRDRB is able to review issues related to entitlement to benefits. Generally the parties to a DRDRB review are the worker and the employer. The DRDRB will review the file material, gather information and submissions from the parties, and attempt to facilitate a resolution.

The DRDRB is a required step before an appeal can be made to the Appeals Commission. DRDRB decisions are not binding on the WCB.

22. Please provide your views on the effectiveness and timeliness of the DRDRB process. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The DRDRB replaced the former Claims Services Review Committee which had binding authority on the WCB. Because the DRDRB is subservient to the WCB, it is completely useless as an appeal entity. What it does is allow there WCB to make it look like they have speeded up the appeal process.

7/12/16 5:55:47 PM MDT

24. A person has one year from the date a WCB decision was issued to request a review of that decision by the DRDRB. Some people say that this period is too short. Others say the one year limit is sufficient, since there is an opportunity to request extensions.

23. What are your views about the one year limitation period to file a request for a DRDRB review? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The court system has a 2 year limit. Let's try it.

7/12/16 5:56:11 PM MDT

**25. APPEALS COMMISSION**

The Appeals Commission is a body established under the Workers' Compensation Act that is separate from the WCB. The Appeals Commission has adjudicators appointed by the Government of Alberta through a public recruitment process, as well as the Chief Appeals Commissioner, who also acts as CEO of the Appeals Commission.

The Appeals Commission has the authority to examine, inquire into, hear and determine all matters and questions arising under the Act in regards to decisions made by the DRDRB. The Appeals Commission may confirm, vary or reverse a decision of the DRDRB, and it may entertain new evidence during the appeal hearing. The Appeals Commission is required to follow the provisions of the Act and WCB policies.

The Appeals Commission is required to provide all persons with a direct interest in a matter the opportunity to be heard and to present any new or additional evidence. It must also permit the WCB to present to the Commission regarding the proper application of WCB policies, the Act or regulations related to the matter under appeal.

24. Please provide your views on the effectiveness and timeliness of the Appeals Commission process. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The effectiveness of the Appeals Commission is greatly reduced by the fact that it is bound by the WCB policies. To establish such a body that is separate from the WCB (by design) and then to make it bound by the policies which are created by the WCB department that is basically causing the appeal in the first place, results in a process which is considered absurd by appellants, and abusive by labour lawyers.

7/13/16 8:47:48 AM MDT

26. Presently, during a hearing the Appeals Commission limits its examination to the matters that are the subject of the appeal. Some have suggested the Appeals Commission should examine all issues impacting a claim, beyond the specific matters under appeal, if it is possible to resolve the matter in its entirety. Others say this would not be desirable, as it would raise the possibility of the Appeals Commission wading into matters that neither party wanted to revisit.

25. What discretion, if any, should the Appeals Commission have to examine issues relating to a claim that might not be the subject matter of the appeal, but might resolve the matter in its entirety? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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This is a difficult call. In another logical flaw, the WCB has the ability to take the Appeals Commission to court if it disagrees with policy or legal interpretation. It has done so on numerous occasions. This has had the effect of making the Commissioners very leery about even over-ruling the WCB, and this really should be changed. The Appeals Commission, at a minimum, should feel free to substitute its own decision for the DRDRB's. Otherwise, the Commissioners will continue to do no more than overturn the DRDRB and send the matter back to the WCB for further adjudication. After a process that may well take 18 months, and being informed that his appeal has been successful at the Appeals Commission, he is no further forward in any material way.

7/13/16 8:55:09 AM MDT

## 27. RECONSIDERATION OF APPEALS COMMISSION DECISIONS

The Act allows for the reconsideration of Appeals Commission decisions. A reconsideration is not an appeal. Currently, there must be very good reasons for a reconsideration application to be successful. These reasons include:

- the presence of relevant evidence that was not available at the time of the appeal decision and which is likely to change the result of the original decision; or
- a significant defect in the appeal process or the content of the decision.

Some have suggested that the criteria the Appeals Commission considers for reconsideration of appeals may require more flexibility.

26. What factors should be considered by the Appeals Commission when determining whether a case should be reconsidered? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Those reasons appear to be adequate. As much as possible, there should be some finality in the process.

7/13/16 8:56:29 AM MDT

## 28. GETTING HELP AT THE REVIEW AND APPEAL STAGES

The WCB operates an Office of the Appeals Advisor, which makes advisors available to inform and represent workers through the review and appeal processes.

For example, an advisor can help a person determine whether they have grounds for review or appeal of a decision. An advisor may also suggest alternatives to filing an appeal. Advisors can accompany workers and represent them at Appeals Commission hearings.

Some people question whether the Office of the Appeals Advisor is able to provide impartial and effective advice to workers, since it is not independent from the WCB. Others feel the services being provided by the Office of the Appeals Advisor are effective.

27. What are your views about the ability of the Office of the Appeals Advisor to offer impartial and effective advice to workers? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The services of the OAA are often effective, but they are limited in what information they can access, now requiring the approval of the Customer Services Department to ask written opinions/answers from treating physicians. The Advisors are managed by the WCB and are not their favourite people. Their budget is also controlled by the WCB and there is the appearance at least of a conflict of interest. Placing the OAA outside the WCB has been suggested. A concern is a loss of access to claim files in a timely manner. There was also previous discussion of where would be an appropriate place for the OAA. The Department of Labour was one spot put forward, but many feel that, in Alberta, that is not a happy or effective place.

7/13/16 9:51:20 AM MDT

29. Currently, the Office of the Appeals Advisor is not available for employers. Employers can access the Employer Appeals Consulting Service (EACS), which is provided by WCB account managers.

EACS can help employers understand the facts, policies and legislation used to make a specific decision, and help them determine whether to proceed with a formal review or appeal. EACS will not accompany or represent an employer at an appeal. EACS will offer advice to an employer on how to present their position in an appeal.

Some people have suggested that employers should have access to WCB-funded representation at an appeal, similar to what workers have in the Office of the Appeals Advisor.

28. Should employers have access to WCB-funded representation at appeals? Please explain. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Employers are generally concerned chiefly with costs; my sense is that the great majority of employers in Alberta want as little to do with the WCB as possible, and providing more advice to them than the Customer Service Department already does is probably unnecessary. Also, there is a distinct lack of gratitude on the part of employers when they receive their often sizeable annual rebates; their position is that the WCB has done them no favours by collecting too much from them, and refunding some later.

7/13/16 9:57:44 AM MDT

## 30. PRIVACY AND CONFIDENTIALITY

When a worker appeals a decision, the WCB is required to provide the Appeals Commission with its records and information, including personal information (e.g., medical) relating to the claim or matter that is under appeal. The WCB is also required to provide the Appeals Commission with the written decision that is being appealed.

On request, the worker (or the worker's representative), the employer (or the employer's representative), and any other person with a direct interest in the claim may also receive redacted copies of this information from the WCB.

Recognizing that privacy rights are important to everyone, it makes sense to consider how information sharing takes place in the appeals process. Questions have arisen regarding what and how information about a worker's claim is presently shared with parties.

29. Are the safeguards currently in place by the WCB adequate to protect worker information during the appeal process? If not, what safeguards would increase your level of confidence? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

\_\_\_\_\_  
No comments. FOIP is difficult for all of us to deal with, but is necessary to preserve rights and privacy.

7/13/16 9:58:53 AM MDT

### 31. OTHER THOUGHTS YOU MAY HAVE

30. Please provide any other comments you have relating to reviews and appeals. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

\_\_\_\_\_  
Interest. One of the things that a government-regulated entity can do to guarantee failure, is to shield itself from market realities. When the WCB pays entitlements to an injured worker late, which is very common, they pay no interest. Bad idea. Wrong decisions are rewarded and it would be a rare organization which would behave fairly and rationally when it gets to deny claims, and still benefits from doing so when their decision is overturned. Shielding one from market realities results in perverse behaviour. The WCB with its Board of Directors concerned about fiduciary responsibility, actually has denied claims which were perfectly acceptable, and were eventually accepted, for cash flow reasons. Can't pay this month, but can change our mind after the financial statements are cleared. My information is that many jurisdictions, probably the majority, but not easy to confirm, is that WCB of Alberta is not a leader in this matter, or most WCB matters. We should pay interest when a claim is denied, and then accepted after further review. This could be after new information is received, or further supervisory review, or after an appeal changes entitlements. To do less leaves the injured worker made "less than whole" and is a denial of natural justice. Time Limit at the DRDRB. It was established as one year, and many lives were financially burdened as a result. Injured workers who wished to appeal, for example, a permanent partial disability award, but were warned by WCB staff that their monthly wage loss supplement could well be interrupted if they did so, held off. Then, the one year time limit was introduced, and injured workers who lived in other provinces and other countries were "assumed to have known". And, they were denied their right of appeal at the DRDRB level. Particularly egregious is the provision that an injured worker in this situation has the right to request a waiver of the one year time limit, by writing to the Chair the chair of the DRDRB. Here's the thing. There is no right of appeal of the decision of the Chair. Why not? That is an important right that has been thoughtlessly removed and this should be remedied, probably retroactively. Medical consultants. Doctors are employed to answer the medical questions for the Customer Service Department. In practice, these WCB employees are well educated, and understand quite well the desired opinion. The College of Physicians and Surgeons website informs of the qualifications of these "doctors" and where they graduated. In many cases, they come from lands where life is not safe, although their education system is considered to be adequate for this kind of administrative medical practice, and they are apparently willing to sign whatever the WCB wishes. Letters from local doctors, including surgeons, protesting the adjudication of claims by "doctors for hire" have been received by the WCB. This should be investigated.

7/13/16 3:27:59 PM MDT

### 32. BOARD OF DIRECTORS OF THE WCB

The WCB is governed by a Board of Directors, which is appointed by the Lieutenant Governor in Council.

Among its roles, the Board of Directors:

- guides the WCB's strategic direction;
- appoints and evaluates the performance of the WCB's President and CEO;
- determines the salary and benefits of the WCB's President and CEO which are paid out of the Accident Fund;
- approves and monitors the WCB's administrative budget and financial results;
- provides oversight of the WCB's management of its business and affairs; and
- is responsible for establishing the operating policies of the WCB.

The Board consists of a Chair, and up to three members considered to be representative of the interests of each of: employers, workers and the general public. Varying opinions have been expressed about the relationship between these board members and the stakeholders they are considered to be representative of.

31. What involvement, if any, should stakeholders have in the nomination and recruitment process of WCB directors? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Normally, I would say this should be left to the Board. However, recent news of the astounding salaries and benefits demands an inquiry. It reminds one of the Alberta Health Services situation/scandal and is completely out of touch with the lives of average Albertans, and of injured workers. The Board should be questioned thoroughly on this subject. And, it does appear that some changes should be made. As in business, the management of companies is often led by the nose by the Board of Directors.

7/13/16 3:28:01 PM MDT

33. 32. How do you (or your organization) currently provide input to the Board of Directors? What works and what could be improved? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Good question. There does not seem to be a regular opportunity for input. Let's work on that.

7/13/16 3:28:03 PM MDT

34. WCB CORPORATE OBJECTIVES AND KEY DELIVERABLES

On an annual basis, the WCB Board of Directors establishes corporate objectives and key deliverables.

Some of the measures and their results (from the 2015 WCB Annual Report) include the following:

- Returning injured workers to a state of fitness needed to return to work. With WCB support, 92.5% of injured workers achieved the fitness needed to return to work. This result exceeded the target of 90%.
- Delivering fair decisions. Decisions are reviewed and audited to ensure they are fair. WCB's average audit score of all decisions audited was 94%.

Performance targets can drive the culture of an organization. Some have expressed concerns about how the achievement of corporate performance targets such as early return to work for injured workers are being rewarded. Others say that an injured worker's chances of successfully returning to work increase significantly if they return to work within 3 months. Based on this, they suggest that the WCB's performance measures are valid.

33. What are your views on the performance measures and targets currently set by the WCB? Are there additional or alternate measures you feel would be appropriate? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the*

*questions. You will not be prompted at each question when you exceed the maximum.*

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These corporate targets are nonsense. The outcome is predetermined. Before an injured worker even falls off a scaffold, never mind hits the ground, the WCB through its cost-controlling process, with the help of its doctors for hire, has determined not only how long the worker will be disabled, but to what degree he or she will be permanently disabled.

7/13/16 3:28:04 PM MDT

### 35. POLICIES OF THE WCB

The Board of Directors determines the need for and nature of consultation in its policy development process (i.e., when a policy is developed, changed or evaluated).

On an annual basis, the WCB creates a Policy Development Plan that identifies the issues it plans to address during that year. In addition, if a stakeholder believes a policy should be changed, they can send in a written request to the Chair for a policy review.

The WCB has established a policy and consultation process which includes:

- Issue Identification;
- Research and Analysis;
- Policy Development/Amendment;
- Stakeholder Consultation;
- Approval and Implementation.

Consultation can include public and/or expert consultation. For the most part, consultation is conducted through the WCB website (posted for 60 days). Depending on the nature of the issue, the WCB may convene an in-person meeting.

Stakeholders can subscribe to receive an email notice when the WCB's Policies and Information Manual is updated online, or when a new policy is posted for consultation.

In British Columbia, there is a Policy and Practice Consultative Committee made up of representatives from WorkSafeBC (the WCB equivalent in BC) and the employer and worker communities. The committee provides input and advice to WorkSafeBC's senior executive on stakeholder consultation processes, stakeholder perspectives on priority issues (e.g., policy, legislation) and the identification of stakeholder issues. In addition, on behalf of their communities, the committee is a forum to receive updates on key operational initiatives and share relevant information.

In Alberta, the WCB covers over 2 million workers and thousands of employers. The WCB's policies have wide-reaching consequences in the province, so it is important that its policy development process is adequate and effective.

34. In your experience, is the WCB's current policy development process effective? Please describe how you would like to be consulted in the development of WCB policies. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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No. Employers and workers and unions and other organizations should have way more input into WCB policy (which as we have said, should not be binding on the Appeals Commission). But let us be clear, it is not just WCB management that is lacking here. Again, the legislative provision that an injured worker has no right of appeal under Sec 40 vs. the Chair of the DRDRB is even worse. The workers and their organizations should be consulted on a regular basis re: WCB policy. To date, the policies appear to be conceived by WCB claims staff. Hardly a confidence builder.

7/13/16 3:28:06 PM MDT

### 36. REVIEW OF THE WORKERS' COMPENSATION SYSTEM

The last comprehensive review of the workers' compensation system in Alberta was conducted more than 15 years ago.

The Alberta Public Agencies Governance Act contains a general requirement for the Minister to review each agency's mandate and operations every seven years. However, there is no requirement in the Workers' Compensation Act to conduct a review of the entire workers' compensation system within a specific time period.

Other Canadian jurisdictions have requirements in their legislation to review their workers' compensation statutes and regulations on a regular basis. For example, Saskatchewan has a requirement to conduct a review every four years; Newfoundland and Labrador every five years; and Manitoba every ten years. Some have suggested Alberta should adopt a similar requirement.

35. What are your views about amending Alberta's Workers' Compensation Act to require that the government review the workers' compensation system on a regular basis? If you support this approach, how often should such a review occur? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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It seems tedious, but Alberta experience has, unfortunately, confirmed the need for review on a regular basis.

7/13/16 3:28:08 PM MDT

### 37. OTHER THOUGHTS YOU MAY HAVE

36. Please provide any other comments you have relating to the WCB's governance. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

\_\_\_\_\_

Just look at the Millard Report. Well written, and well intentioned. And, well forgotten as soon as he was out of the picture. Some serious enforcement is required after a long investigation makes recommendations. The injured worker heard: "They're gone now, we're here!"

7/13/16 3:28:09 PM MDT

### 38. ROLE OF WCB IN PREVENTION

The OHS program in Alberta is responsible for improving workplace compliance with OHS legislation through evidence-based prevention initiatives, education and enforcement activities. OHS is located in the Ministry of Labour.

Among its functions, OHS:

- is responsible for prevention activities that include: Work Safe Alberta; proactive strategic programs; the Certificate of Recognition (COR) Program; and the Work Right Campaign;
- educates workers, employers and the public through the use of bulletins, publications, e-learning programs and other educational materials;
- approves training programs across Alberta, such as Workplace Hazardous Materials Information System (WHMIS) training, First Aid training, and Spirometry and Lung Function training;
- approves worker permits, such as the Blasters Permit Program and the Asbestos Permit Program.

The funding for OHS in Alberta is provided through the WCB. This approach is consistent with other jurisdictions in Canada. In some jurisdictions, however, OHS and workers' compensation are housed in one organization.

The WCB also administers grants of annual operating funding to seven Alberta safety associations, for the purpose of promoting education in accident prevention to employers. These grants are funded through a levy that is added to the WCB premiums of employers in the represented industries. In some industries, safety associations are funded directly by member contributions.

Some people have indicated it is currently unclear who safety associations are accountable to. It is also unclear whether there are regular evaluations of the outcomes being achieved by safety programs and associations.

37. What role should the WCB or Occupational Health & Safety have in the funding and oversight of safety

associations? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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In many ways, the problems got worse after WCB and OHS split. Prior to that, there was some accountability for injuries....the Members of the Board could question the adequacy of safety provisions.

7/13/16 3:28:11 PM MDT

39. 38. Please provide your insights below on the accountability of safety associations and the evaluation of their safety programs. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

\_\_\_\_\_

Money motivated, in many cases. Nobody likes accidents, but if paying for a safety program results in lower assessments, safety really isn't the object.

7/13/16 3:28:12 PM MDT

#### 40. HEALTH AND SAFETY INFORMATION

Information gathered by the WCB represents the only available source of health and safety information that can be compared across employers and industries. This information is useful in setting health and safety policy and program direction. It is also often used by the public to evaluate the health and safety performance of Alberta's employers.

The users of WCB information are diverse, including: the Government of Alberta; industry and safety associations; employers; researchers; health practitioners and service providers; workers; unions; other jurisdictions; and the public. The types of information available are also diverse, including: industry level claims; employer level claims; injured workers demographics; injuries and illnesses claims; and financial aspects of employers and claims.

39. How is the data currently gathered by the WCB meeting your safety and injury prevention needs? Please describe. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Based on how it is used, and for what motives, I have little confidence in WCB data.

7/13/16 3:28:14 PM MDT

41. 40. What other data would be of assistance to you in meeting your safety and prevention needs? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

\_\_\_\_\_

Open, transparent sharing of data between jurisdictions in Canada and the U.S. This will be difficult because of FOIP and other barriers, but it can surely be done. Alberta has not been a leader in this field, and probably shouldn't be.

7/13/16 3:28:15 PM MDT

#### 42. OTHER THOUGHTS YOU MAY HAVE

41. Please provide any other comments you have relating to WCB and roles it could play in the prevention of workplace injury and illness. [3500 Maximum Characters] *Please be aware that you have approximately 30*



*lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Again, the OH&S should probably be more in charge of this. The WCB approach of rewarding employers for no lost time records, which can be abused and falsified, and which have been, was predicted to be a disaster, and certainly has been for some.

7/13/16 3:28:16 PM MDT

#### 43. EMPLOYER PREMIUMS

The WCB is funded through premiums assessed to employers. There are no tax dollars involved in the workers' compensation system, and there are no deductions made from workers' paycheques to fund the system. Employer premiums are established each year.

An employer's assessment rate is determined in the following way:

- The WCB assesses the overall financial picture of the workers' compensation system. Using actuarial reports and financial forecasts, the WCB determines what it will need to pay out. A significant piece of this puzzle is the projected present and future costs of claims that are expected to be made to the WCB in the upcoming year. Historical data helps the WCB project these figures.
- On the basis of the overall financial picture, and with a view to its Funding Policy, the WCB determines what overall amount of money it needs to collect from all employers covered by the WCB in Alberta. This amount of money is determined so that the total premiums collected in the current year will pay for all estimated present and future costs of claims that are made during that year.
- Based on the overall amount of premiums that need to be collected, the WCB determines premium rates for each rate group. There are 118 rate groups covering 364 industries. Some rate groups have only one industry in them, while others include up to 20 industries. The premium rates of each rate group are set based on their historical pattern of claims costs. (This is sometimes called the "industry rate".)
- Each employer within a rate group is then assigned their premium rate based on their record of claims costs. This is called the "experience rating". Based on how the employer stacks up to the average of their rate group (or "industry average"), their premium rate for large employers can be set up to 40% higher or lower than the industry rate. Small business premium rates can be set up to 5% higher or lower than the industry rate.

This process is intended to achieve three things.

- First, it ensures that every employer pays something, thereby maintaining the collectivist nature of the workers' compensation system.
- Second, it provides for fairness by distributing the premiums based on which employers and industries are more likely to be the source of WCB claims and costs.
- Third, by reflecting the different claims histories of different employers and industries, it builds accountability into the system.

The WCB's use of an "experience rating" component means that an employer's WCB claims influence the WCB premiums they pay. Some have suggested the experience rating gives employers an incentive to suppress WCB claims. Others say the experience rating gives employers an incentive to undertake safety programs and measures that prevent injuries and illnesses in their workplaces.

Some have expressed concern that the WCB does not have sufficient processes in place to investigate or deter claims suppression. Others say that existing processes work well.

Claim suppression is intentionally inducing a worker not to claim WCB benefits they are entitled to claim. Claims suppression can occur when incidents are not reported to the WCB, or when a claim is reported as 'no lost time' but actually involved lost time by a worker.

42. To what extent is the WCB experience rating system an incentive for preventing workplace injuries and diseases? To what extent is experience rating an incentive for promoting claims suppression? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Both things are happening. Many employers sincerely participate in accident reduction programs, and the fact that this may be profit-oriented does not necessarily decrease their honesty. Claim suppression has occurred and too often. My conclusion is that it was a bad idea. If you encourage an employer to bribe an employee to drive a pickup truck around, with a cast on her arm, while at the same time bragging at the front end signage that it is a no time lost site, the employer would have to be an unusually ethical entity not to comply.

7/13/16 3:28:22 PM MDT

44. 43. Is there a sufficient investigative process in place to deal with complaints of claim suppression and are the penalties sufficient to deter employers from this practice? How could investigative and penalty processes be improved? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Claim suppression is routinely denied, difficult to prove. Get rid of the program which encourages claim suppression. This is far more the WCB's fault than the employers'."

7/13/16 3:28:23 PM MDT

#### 45. INDUSTRY CUSTOM PRICING

The WCB offers Industry Custom Pricing (ICP) as an option for the calculation of employer premiums. Participation in ICP is industry-based. The WCB works with representatives of an industry to customize a pricing model for that industry. Various options exist. For example, an industry can choose to change the experience rating component, so that individual employers' claims records are weighted more heavily in the calculation of WCB premiums.

An industry must choose to move to ICP. Employers in the industry are polled on the proposed ICP program. If a majority of the industry votes in favour, the ICP program is then implemented for all employers in the industry.

An industry can later choose to opt out of the ICP program and revert back to the WCB's standard pricing model, by way of a similar majority vote.

In an industry-wide vote about ICP, a "majority" is defined as at least 50% of the industry as measured by insurable earnings. This means that, in some industries, a handful of very large employers can decide the vote, even if they constitute a minority of the total number of employers in the industry.

As a result, some have raised concerns that the WCB's approach to establishing an ICP program creates inequities between smaller and larger employers. Others say the approach is not inequitable, because it is based on the number of workers in the industry, not the number of employers.

44. Are employers of different sizes treated equitably in regards to ICP? If not, what strategies might be available to minimize inequities? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

no knowledge, no comment

7/13/16 3:28:24 PM MDT

#### 46. PARTNERSHIPS IN INJURY REDUCTION

The Partnerships in Injury Reduction (PIR) program is a voluntary program in which employer and worker representatives work collaboratively with the government to build health and safety management systems.

A Partner is an association, corporation or organization that commits to taking a leadership role in health and safety by entering into a formal agreement with the Alberta government. The Government and each Partner

sign a Memorandum of Understanding outlining the specific commitments made by each organization.

The WCB offers an incentive (in the form of a premium reduction) to employers who participate in PIR. Some have questioned whether this incentive makes sense, since it is not connected to the employer's experience rating (i.e., their claims record). Others have suggested that the incentive makes sense, as it encourages employers to build safety management systems.

45. What are your views about the WCB's current practice of providing a premium incentive for employers who participate in the PIR program? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Anything that reduces accidents is worth considering. I'm not sure if the value has been established. Lots of lunches.

7/13/16 3:28:26 PM MDT

#### 47. THE WCB ACCIDENT FUND

The *Workers' Compensation Act* requires the WCB to maintain sufficient funds in the WCB's Accident Fund for the payment of present and future compensation to injured workers.

The concept of future compensation is important. In many instances, the WCB will be required to pay benefits to a worker for a long time period. Benefits will also be subject to inflation over time. There needs to be sufficient money in the Accident Fund to cover these long-term costs.

The Accident Fund is considered fully funded when the total of all assets equals or exceeds 100 percent of total liabilities.

The Accident Fund is managed so that it can generate investment returns. These investment returns can sometimes be better or worse than expected.

In managing the Accident Fund and setting employer premiums, the WCB follows its Funding Policy, which is established by the Board of Directors. The Funding Policy has several goals:

- Minimize the risk of being unfunded - To ensure injured workers benefits are secure, and that there is sufficient money in the Accident Fund for the payment of current and future benefits.
- Current employers pay for today's accidents - Stability is maintained in the Accident Fund by having today's employers pay for the current and future costs of today's accidents. This reduces the risk of passing the costs on to the next generation of employers.
- Minimize cost volatility to employers - To ensure that volatility of the Accident Fund does not create volatility in employer premiums. The objective is that premium rates reflect the current and future costs of today's accidents.
- Minimize the total cost charged to employers - The Accident Fund is managed to earn a rate of return that covers the annual growth in the liabilities associated with current and prior year accidents.

To achieve the goals of the Funding Policy, the WCB has established a target funding range for the Accident Fund of between 114% and 128%. This range was developed in consultation with experts independent of the WCB and the use of asset-liability modelling tools. The WCB indicates that the funding range, and the financial modelling that supports the range, are reviewed each year to ensure they remain appropriate.

If the funded ratio of the Accident Fund falls below the target funding range (i.e., lower than 114%), the WCB can decide to collect additional money from employers in order to bring the Accident Fund to required levels. This will be done in the form of a levy.

Conversely, if the funded ratio of the Accident Fund rises above the target funding range (i.e., greater than 128%), the WCB can decide to distribute a portion of surplus to employers. When the WCB does this, any money distributed is from better-than-expected investment returns, not the premiums that were collected.

This is akin to using a portion of interest from an investment, without touching the principal of the investment. Employer premiums are like the principal, and they stay in the Accident Fund so that they can fully fund the present and future costs of claims. Interest amounts that are realized from better-than-expected investment returns can be taken out of the Accident Fund and distributed to employers.

Questions have arisen about the WCB's target funding range and its implications for premiums, levies and distributions.

Some people say that the WCB should freeze or cut premiums so that it does not have a surplus in its Accident Fund. Other people say that freezing or cutting premiums would go against the principle that today's premiums pay for today's accidents and would raise the risk that there would be insufficient money available to pay the current and future costs of benefits for workers. Still others say that the Accident Fund should retain a comfortable surplus, in case markets are volatile and the Fund's investments fall in value.

46. What are your views about the way the WCB establishes and implements WCB premiums, levies and distributions? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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The insurance industry has lost trillions based on their investment advice. The WCB is not and should not be a big gamer. The fund should be invested on a non-active, conservative basis.

7/13/16 3:28:29 PM MDT

48. 47. What other ways can the WCB ensure the sustainability of the workers' compensation system? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Look at the model of the CPP plan, before they became active managers.

7/13/16 3:28:30 PM MDT

49. 48. Distributing surplus money from the Accident Fund to employers is one way to address better-than-expected investment returns. What are some other ideas about what to do with these surpluses? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Don't take them in the first place, to the best of your ability.

7/13/16 3:28:32 PM MDT

#### 50. OTHER THOUGHTS YOU MAY HAVE

49. Please provide any other comments you have relating to funding and financial sustainability. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

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Contact worker's organizations, and employer's organizations. They may well have some helpful, creative ideas.

7/13/16 3:28:33 PM MDT

#### 51. ALTERNATIVE DISPUTE RESOLUTION

Some people have said that various aspects of the workers' compensation system have become legalistic, daunting and/or too adversarial over time. (For example: the Medical Panel process, the DRDRB process and the Appeals Commission process.)

There have been suggestions that it would be valuable for the workers' compensation system to incorporate consensual resolution processes (such as alternative dispute resolution) at key points, as a way of making the system more accessible for workers and employers.

50. Where, if anywhere, do you see opportunities to incorporate consensual resolution processes (such as alternative dispute resolution) in the workers' compensation system? What could these processes look like? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Well, it would be an admission of failure on the part of the WCB. They were supposed to be more user-friendly, cheaper, better, and they blew it. Now you need help to deal with your rep at the WCB or the OAA? Perhaps a mediation opportunity is needed. Sigh

7/13/16 3:28:34 PM MDT

53. 51. What do you like most about workers' compensation in Alberta? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Pleasant staff at the front end, but they can't do much for you.

7/13/16 3:28:38 PM MDT

53. 52. What are your primary concerns about workers' compensation in Alberta? [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

No interest paid on late benefits. Culture of denial. Biased, non medical attitude of Medical Department--they want to adjudicate. Inability of Appeals Commission to actually change a WCB decision. The bosses at the WCB make more than president Obama? No documentation of appeals costs, (hopefully including interest paid, in the future) on the file...this should be on the inside front cover, electronically , to remind adjudicators of ethics and costs.

7/13/16 3:28:39 PM MDT

54. 53. We invite you to provide any other comments you have, which you have not already provided. [3500 Maximum Characters] *Please be aware that you have approximately 30 lines or 3500 characters to write your responses to each of the questions. You will not be prompted at each question when you exceed the maximum.*

Thank you, I would like to have an opportunity at your September forum.

7/13/16 3:28:40 PM MDT

55. Organization Name

Construction and Specialized Workers' Local Union 1111

7/13/16 3:36:35 PM MDT

56. First Name

\_\_\_\_\_

Jim

7/13/16 3:36:35 PM MDT

**57. Last Name**

\_\_\_\_\_

Shifflett

7/13/16 3:36:35 PM MDT

**58. Phone**

\_\_\_\_\_

██████████

7/13/16 3:36:35 PM MDT

**59. Email**

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██████████████████

7/13/16 3:36:35 PM MDT

**60. Please identify the industry of the organization(s) you represent [Select all that apply]**

4. Construction and Construction Trade Services

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For assistance:  
Refer to the [Opinio Survey Software User Guide](#).  
Contact the **GoA Service Desk** at 780-427-1GOA (1462) or [goa.servicedesk@gov.ab.ca](mailto:goa.servicedesk@gov.ab.ca)