



January 6, 2017

WCB Review Panel

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The Alberta Construction Association appreciates the opportunity to provide a second submission to the Panel, in the form of this letter. Alberta's construction industry is a major stakeholder, contributing approximately 25% of the WCB's annual premiums. The ACA represents over 3200 member firms across the Province, of which approximately half have 20 or less employees, and approximately 80% have fewer than 100 employees.

Construction employers are committed to a fair and sustainable WCB system that supports injured workers and their families, and provides for the safe, early return of these workers to employability.

On behalf of its members, ACA has actively engaged in the Review, in responding to the Workbook, in providing a separate written submission in early July, participating in the stakeholder consultation November 16 and 17, 2016, and the December 16, 2016 Trend Talks.

Based on ACA's observation of the Review process and dialogue, there are a number of points that ACA would like to reinforce, as follows.

Changes should relate to the scope of the Review

The Terms of Reference note: "The purpose of the review is to strike the right balance between workers and employers to ensure fair compensation, meaningful rehabilitation for an injured worker, and a sustainable and affordable workers' compensation system".

ACA is concerned that a number of the concepts raised in the Review not only fall outside these terms of reference, but indeed, fall outside the Meredith Principles upon which the WCB is based. As an example, Occupational Health and Safety and the governance of safety associations are beyond the scope of the Review.

The Review Progress Report, echoed by comments of the Panelists, is that for the majority of injured workers, Alberta's WCB responds very well. Alberta WCB statistics indicate high levels of injured worker satisfaction. Why then are so many of the proposed changes far broader in impacting all workers, rather than the few that may have concerns in the words of one Panelist of "falling through the cracks"?

The final report and recommendations should not extend beyond the stated purpose of the Review.



## WCB is an Insurance Program, and is not a replacement for taxpayer funded social programs

The Working Together Progress Report noted (page 5) a concern of some that the WCB has shifted to an insurance culture. The WCB operates by collective pooling of current and future liability, paid by investment of employer premiums, in which individual employer premiums are determined by claims experience. The WCB is by definition an insurance program. The White Paper on the use of administrative data for prevention, commissioned by the Panel, shares this view: “Funded through employer premiums, its principal mandate is to oversee a no-fault insurance system for work-related injury and illness” (page 19).

The intent of the WCB should be to return the injured worker to a state of employment at the time of the injury, and if that is not possible, to a state of meaningful employability through medical and vocational rehabilitation. The White Paper agrees: “Under the system, injured workers are compensated for lost time and are provided support (eg. health care and rehabilitation) to enable them to return to work at preinjury health and work functioning” (page 19). ACA does support improving the current process of deeming of earnings where the occupation reflects the injured worker’s capabilities and local labour demand. ACA opposes adjusting benefits based on an assumed career progression, or providing a pension after 65 years of age. Employees are free to pursue opportunities across employers and industries, and employers have the right to adjust their workforce based on competitive and market challenges. Employers are not in a position to guarantee jobs for life and career progression for their workers, the Government should not impose a statutory obligation on employers to do this for injured workers. Duty to accommodate should continue to be within Human Rights legislation, and recommendations should not add to complexity for workers and employers to navigate two systems that may overlap and contradict.

Further, ACA opposes the current WCB policy interpretation to extend no-fault principles in the form of payment of TTD to workers on modified duties after they have been terminated with cause. Employers need to be able to act to maintain the safety of their worksites and other workers, without being penalized.

Premiums charged by Workers compensation boards in each province reflect the totality of policy decisions in terms of claims accepted, benefits offered, and administrative procedures. Hence, the Review recommendations should refrain from “cherry-picking” and select new features observed in other provinces without a clear understanding that there will inevitably be increased costs, and hence reduced affordability and reduced sustainability of the Alberta WCB.

ACA does not support an increase or removal of the cap on Maximum Insurable Earnings. The current cap provides significant income replacement for the vast majority of Alberta workers, while retaining an incentive for return to work.

ACA does not support expansion of presumptive legislation. Claims adjudication needs to continue to be based on work relatedness and medical evidence of injury / impairment. Overwhelming evidence affecting the working population would be required to accept the standard implicit in presumptive coverage.

Providing excellent levels of benefits while operating well above the 114-128% fully funded range established by policy suggests that the WCB operates with higher employer premiums than necessary. Surplus premiums should continue to be returned to employers as funders of the WCB.

Adding to employer costs will limit the ability of employers to maintain and expand employment opportunities for workers. A number of suggestions were raised in the November 16-17, 2016 consultation that would contribute to containing administrative and claims costs while improving services for injured workers. ACA would welcome the opportunity for further stakeholder consultations to explore these ideas with the WCB.



### Changes should be evidence-based

The Alberta Government has stressed the importance of transparency in evidence-based decision-making. Given that the WCB is 100% employer-funded, prior to any recommendations for change the Panel should share with employers the costs and actuarial assumptions in sufficient detail so that employers as the funders of the system can reach an independent, informed conclusion that the new system is both sustainable and affordable.

As an example of our concern, the WCB advised in December that an analysis of changes to the cap on Insurable Earnings would be a major actuarial undertaking. In particular, implementing a model with no cap on what is both payable in benefits and what is reportable by employers, compared to a model where there is no cap on what is payable in benefits but with a cap on what is reportable would result in very different simulations.

In conclusion, ACA looks forward to the Panel's response to these recommendations. ACA welcomes the opportunity for continued involvement in any further consultations.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Gibson".

Ken Gibson  
Executive Director