

Highlights

Winter
98/99
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Focus on MEDICAL ISSUES

We are beginning our eighth year publishing *Highlights*. There have been many changes over those years and we continue to change as well. *Highlights* is a forum for you to express your thoughts and experiences - to share our stories. We really appreciate your ideas, suggestions and submissions to the newsletter. They make it all happen.

We want to help provide the information you need. A new feature in this issue is a chart that gives you a quick comparison of policies and practices, province by province by territory. If you like this feature, we will include it in future issues.

The theme of this newsletter is the medical treatment injured workers receive following an injury or disease. We examine the relationship between WCB, the medical community and the injured worker. As one of our correspondents says, "Injured workers find it hard to obtain the proper kind of medical assistance required to put them on the road to recovery". We have reports from across the country.

Also included are news about our activities, letters about your activities, and a story about tougher penalties for safety violations as a result of the Westray Inquiry.

Our next issue focuses on privatization in the WC system. Send us your thoughts.

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CIWA/ACVAMT Projects

For more information on any of our projects, give us a call at: 807-345-3429

"Survivors"

***videos and manuals
are finally here !!!***

Survivors is a guide for organizing community forums, using a 17-minute video and the round table discussion technique. CIWA/ACVAMT has used these tools to build support in local communities, to recruit new members to injured workers groups, and to start new groups.

Price:

\$30.00 (Corporations and
Institutions)
\$22.50 (Unions and Non-Profits)
\$15.00 (Injured Workers and
Unemployed)

"SPREADING THE WORD"

A NEW PROJECT WITH A VISION

- **TO EXPAND THE PARTICIPATION OF
INJURED AND DISABLED WORKERS
IN LOCAL LEADERSHIP**
- **TO EXPAND OUR ORGANIZATIONAL
CAPACITY BY BUILDING SUPPORT
AND PARTNERSHIPS IN LOCAL
COMMUNITIES.**

BY

**DEVELOPING "TRAIN THE TRAINER"
WORKSHOPS AND PROVIDING
RESOURCES TO THESE TRAINED
INDIVIDUALS.**

**BUILDING YOUR GROUP'S
MEMBERSHIP,
SKILLS,
AND COMMUNITY**

Don't forget to visit our web site: www.ciwa.ca

Corinne Yantha, Executive Assistant at CIWA/ACVAMT, has been busy learning how to edit and update the site, so please let her know if there's anything you would like to see changed. Send your email to ciwa@norlink.net.

C.I.W.A. Board Members

AB ... James Burke , Calgary Calgary Injured Workers Assoc.	NF... Austin Haynes , St. John's Newfoundland & Labrador Injured Workers Association
SK... Robert Lindsay , Regina Western Injured Workers Society - Sask.	NB... Wendy McGee , Saint John St. John Labour Community Services Inc.
MN... Wayne Desiatnyk , Winnipeg Injured Workers Assoc. of Manitoba	Sandra Baxter , Hampton
ON... Joan Crevar , Hamilton Ontario Network of Injured Workers Groups	NS... Dave MacKenzie , Westville Pictou County Pictou County Injured Workers Assoc.
QC... Liane Flibotte , Montreal l'ATTAQ	ADVISORS...
NF... Phil Brake , Labrador City U.S.W.A.	Andy King , USWA; Orlando Buonastella & Marion Endicott , IWC

WCB's AND MEDICAL MATTERS

In the world of Workers' Compensation, an injured worker's relationship to the medical profession becomes confused--or perhaps better put, the medical profession's relationship to the injured worker becomes confused.

On the road to recovery an injured worker relies on three main external supports: support and comfort of family and friends; financial stability from the WCB; and healing from the doctor. The doctor is trusted to make the very best decisions in regard to treatment, medication, and activity, to ensure the best possible recovery of the patient. The doctor's decisions are based on a thorough knowledge of the patient and the condition. We have grown to trust the judgements of our doctors.

What a rude awakening it is then to find decisions about treatment or medications or even our compensation made by doctors who have seen us once--or never. Most provinces, perhaps all, have some form of "WCB doctors" who play a role in determining our treatment or our compensation. These doctors have distanced themselves from any doctor-patient relationship and yet they make critical

decisions, which can profoundly affect the lives of injured workers.

It may be sensible for an institution such as the Workers' Compensation Board to employ doctors as a resource for better understanding a worker's medical condition. Such a doctor may even legitimately indicate the need for further medical investigation or opinion. These doctors however, have no right to render medical opinions which are accepted by the WCB over and above the opinion of the doctor treating the injured worker.

Over the years injured workers have continually fought for WCB's recognition that the treating doctors must be respected as the decision-makers in regard to treatment. This fight has met with varying success.

The biggest threat of all now looms on the horizon. All over Canada, WCB's are moving closer and closer to a private insurance model of compensation which seeks, not to fully compensate an injured worker for her/his losses, but pay the least possible. Legislation is changing rapidly which puts increasing limits on what is to be compensated

(stress and repetitive strain injuries are most often on the chopping block) and limits how much compensation will be paid. In some jurisdictions there are caps on medical spending. Increasingly the concept of "usual healing times," is being used not as a diagnostic guide, but as a cut-off schedule! As part of this shift, there is now evidence that the **Managed Health Care** system is being considered. This is the system widely used in the United States where private insurance companies dominate the compensation system.

In the Managed Health Care system, a worker does not even have the right to choose their own treating doctor. In this system the Board will hold a contract with a private company (usually associated with a large insurance company) which provides medical services. Upon injury, a worker will be required to have all treatment for the compensable condition done through the WCB's chosen "health care provider." Such a system is the ultimate in confusion in the doctor-patient relationship. To whom does the WCB contracted doctor owe their allegiance--to the patient? or to the WCB? It is not difficult to answer that question. If there is any doubt, we need only to turn to the injured workers south of the border and ask them.

There is another disturbing trend. Increasingly we see WCB's denying claims or ongoing benefits due to the lack of "objective medical findings." What is this about? In these times of corporate domination which seeks to minimize the security of the general population (so that people will be forced to take jobs and to take them at lower and lower wages), injured workers are being portrayed as being fundamentally lazy, pampered, and prone to exaggerating their pain. If this view is accepted, then measures to restrict treatment and to terminate benefits become acceptable. The demand for "objective medical findings" is such a measure. Using this measure, the WCB will only approve claim costs where there is technologically verifiable proof of injury such as x-ray evidence or nerve conduction study evidence. This is not medical science. This is insurance claims management.

In medical science, there is no such term as "objective medical findings." Doctors use the terms: history, signs, symptoms, and studies. All four categories help the doctor establish the diagnosis and the treatment plan. Signs (what the doctor finds on examination) and symptoms (what the patient complains of) are the main tools used by the doctor. Studies (x-rays, nerve conduction tests etc.) are only back up tools for the doctor. Doctors know that such studies do not always reveal the nature of the problem. WCB's which demand "objective medical findings," (eg the results of studies) are essentially refusing to believe either the injured worker or the treating doctor. However, it is the WCB using this approach which is being fundamentally dishonest.

We must insist on our right to choose our own doctors. We must insist on WCB support for the medical treatment which we need. We must expose and fight the private insurance model trends which are so devastating to the wellbeing of injured workers. We must engage, in the context of our injured worker organizations, to educate the medical profession about the needs of injured workers and about their poor treatment in the hands of WCB doctors. Many doctors become fed up with the wrangles they get into on behalf of their patients with WCB's. Some will not even deal with the WCB's. We must make family doctors and specialists understand the importance of their role and insist that it be respected by the WCB.

LES ORGANISMES D'INDEMNISATION ET LES QUESTIONS MÉDICALES

Dans le domaine de l'indemnisation des travailleurs et travailleuses, la relation d'une victime d'accident ou de maladie du travail avec la profession médicale devient confuse — ou serait-ce plus juste de dire que la relation de la profession médicale avec la victime d'accident ou de maladie du travail devient confuse.

Dans son rétablissement, une victime d'accident ou de maladie du travail fait

confiance à trois principaux soutiens extérieurs: le soutien et le réconfort prodigués par la famille et les amis; la stabilité financière assurée par la CSST ou la WCB; et la guérison obtenue par l'entremise du médecin. On fait confiance au médecin pour qu'il prenne les meilleures décisions quant au traitement, à la médication et aux activités, pour que le patient ou la patiente puisse se rétablir le mieux possible. Les décisions du médecin sont fondées sur une bonne connaissance du patient ou de la patiente et de son état. Nous avons appris à faire confiance au jugement de nos médecins.

Quel choc que de découvrir que des décisions portant sur un traitement ou une médication, ou même sur l'indemnité à toucher, ont été prises par des médecins qui nous ont vus une seule fois ou même jamais! La plupart des provinces, sinon toutes, ont une certaine forme de « médecins rattachés à la CSST (ou à la WCB) » qui jouent un rôle dans la détermination de notre traitement ou de notre indemnisation. Ces médecins se sont distancés de toute relation médecin-patient et, malgré cela, ils prennent des décisions critiques qui peuvent toucher profondément la vie des victimes d'accidents ou de maladies du travail.

C'est peut-être sensé pour un organisme comme la CSST ou une WCB d'embaucher des médecins comme ressource pour mieux comprendre l'état médical d'un travailleur ou d'une travailleuse. Pareil médecin peut même légitimement signaler le besoin d'une étude ou d'un avis médical plus poussé. Par contre, ces médecins n'ont pas le droit de rendre des avis médicaux qui soient acceptés par la CSST ou les WCB en passant outre aux opinions des médecins traitants.

Au fil des ans, les victimes d'accidents et de maladies du travail se sont continuellement battues pour faire reconnaître par les organismes d'indemnisation que les médecins traitants doivent être considérés comme les preneurs de décisions quant aux traitements à

assurer. Ce combat a connu plus ou moins de succès, cependant la pire menace de toutes se pointe à l'horizon.

Partout au Canada, les organismes d'indemnisation se rapprochent de plus en plus d'un modèle d'indemnisation avec assurance privée qui cherche non pas à indemniser complètement une victime d'accident ou de maladie du travail pour ses pertes, mais bien à déboursier le moins d'argent possible. Les lois changent rapidement, ce qui limite de plus en plus ce qui doit être indemnisé (le stress et les microtraumatismes répétés sont le plus souvent sacrifiés) et limite le montant de l'indemnité. Dans certaines juridictions, il y a des plafonds pour les dépenses médicales. De plus en plus, le concept de « temps habituel de guérison » sert non pas de guide diagnostique mais d'échéancier pour mettre fin aux prestations! Dans le contexte de ces changements, il devient maintenant évident que l'on est en train de considérer le système de la **gestion des soins de santé**. C'est le système qui est largement en vigueur aux États-Unis, alors que le régime d'indemnisation est dominé par des compagnies d'assurance privées.

En vertu du système de gestion des soins de santé, un travailleur ou une travailleuse n'a même pas le droit de choisir son propre médecin traitant. Ce système prévoit que l'organisme d'indemnisation établira un contrat avec une entreprise privée (habituellement associée à une grosse compagnie d'assurance) qui fournit des services médicaux. Lors d'une lésion, on exigera qu'un travailleur ou une travailleuse reçoive tous les traitements pour la condition indemnisable par l'entremise du « dispensateur de soins de santé » retenu par l'organisme d'indemnisation. Tel système constitue la confusion ultime dans la relation médecin-patient. À qui doit son allégeance un médecin embauché par l'organisme d'indemnisation : au patient ou à l'organisme d'indemnisation? La réponse n'est pas difficile

à trouver. Si nous avons des doutes à ce sujet, il suffit de consulter les victimes d'accidents et de maladies du travail au sud de notre frontière.

Il y a aussi une autre tendance troublante. De plus en plus, nous constatons que des organismes d'indemnisation refusent les demandes d'indemnisation ou les prestations continues sous prétexte d'un manque de « résultats objectifs d'analyses médicales ». De quoi s'agit-il ici? En cette époque de domination par l'entreprise qui cherche à réduire au minimum la sécurité de la population en général (pour forcer les gens à accepter des emplois et ce, avec une rémunération de plus en plus basse), les victimes d'accidents et de maladies du travail sont montrées comme fondamentalement paresseuses, gâtées et portées à exagérer leurs douleurs. Dans le cas où cette perception est acceptée, les mesures visant à restreindre les traitements et à mettre fin aux prestations deviennent alors acceptables. La demande de résultats objectifs d'analyses médicales constitue une telle mesure. Grâce à cette mesure, l'organisme d'indemnisation n'acceptera les demandes d'indemnisation que dans les cas où il y a preuve de lésion vérifiable sur le plan technologique, comme celles des radiographies ou des études sur la conduction nerveuse. Ceci n'est pas de la science médicale. C'est de la gestion de réclamations d'assurance.

En science médicale, l'expression « résultats objectifs d'analyses médicales » n'existe même pas. Les médecins utilisent les termes suivants : historique, signes, symptômes et études. Ces quatre catégories permettent aux médecins d'établir un diagnostic et un régime de traitement. Les signes (ce que découvre le médecin lors de l'examen) et les symptômes (ce dont se plaint le patient) sont les principaux outils du médecin. Les études (radiographies, tests de conduction nerveuse, etc.) ne sont que des outils de soutien pour le médecin. Les médecins savent que ces études ne révèlent pas

toujours la nature du problème. Les organismes d'indemnisation qui exigent des résultats objectifs d'analyses médicales (c'est-à-dire le résultat des études) refusent essentiellement de croire la victime d'un accident ou d'une maladie du travail ou même le médecin traitant. Cependant, c'est l'organisme d'indemnisation utilisant cette méthode qui est fondamentalement malhonnête.

Nous devons insister sur notre droit de choisir nos propres médecins. Nous devons insister sur l'aide de la CSST et des WCB pour obtenir le traitement médical dont nous avons besoin. Nous devons exposer et combattre les tendances de modèles d'assurance privée qui sont si dévastateurs pour le bien-être des victimes d'accidents et de maladies du travail. Nous devons entreprendre, par le biais de nos organisations de soutien aux victimes d'accidents et de maladies du travail, d'informer la profession médicale sur les besoins des victimes d'accidents et de maladies du travail et sur le traitement déplorable qu'elles reçoivent aux mains des médecins embauchés par les organismes d'indemnisation. Plusieurs médecins s'exaspèrent des disputes qu'ils ont avec la CSST ou les WCB au nom de leurs patients. Certains refusent même de traiter avec l'organisme officiel. Nous devons faire comprendre aux médecins de famille et aux spécialistes l'importance de leur rôle et insister pour qu'il soit respecté par la CSST et les WCB.

Provincial Updates:

Focus on MEDICAL ISSUES

YUKON

The Yukon WCB has one Medical Consultant, and an alternate Medical Consultant. The Medical Consultant for the Yukon Board is also the President of the Canadian Medical Association. This is the very same one who has been found guilty by the Yukon Medical Council of professional misconduct, and ordered remedial diagnostic training and is appealing in the Courts.

The Medical Consultant provides opinions to the WCB including both levels of appeal on medical issues. He examines, interprets medical reports, participates in case management, provides treatment options and provides Permanent Impairment Ratings. He is also responsible for: Training WCB staff in the area of medicine, providing employers with prevention education, help with policy development, research medical issues of relevance to the WCB, assist in legislated medical surveillance programs, liaise on behalf of WCB with the medical community, within and external to the Yukon. As WCB is also OH&S in the Yukon, he is also tasked with assisting them in investigating accidents.

Unfortunately, there is no a medical review panel. However, the Appeal Panel can order an independent medical examination, which generally is with a specialist outside the Territory.

Here as with most jurisdictions, the Medical Consultant's opinion seems to be the document which carries the most weight within the administration. We are seeing more and more that the Appeal Panels are using facts, not just interpretations. Therefore, examinations and treating practitioners reports are carrying more weight at appeal. There are no limitations on treatment..

The Medical Consultant here was very fond of using average duration of injuries. Since numerous wins

at the Appeal Panel level, the Board is placing less and less weight on that rational for termination of benefits.

The entire medical consultant issue is very contentious here in the Yukon. As we await the Court's decision with regard to this individual doctor's standing, no one is prepared to discuss the issue at all. All of this provides an uneasy feeling for injured workers who must live with the diagnosis of a doctor who has been ordered to undergo remedial diagnostic retraining.

BRITISH COLUMBIA

In BC the WCB has always employed in house doctors as Medical Advisors, attached to individual claims units. Recently the WCB has been replacing the doctors with 'Nurse Advisors'.

The Board also employs specialists for specific purposes such as doing disability assessments and rehabilitation assessments and providing diagnosis and treatment advice.

Their primary role in each case is to provide medical interpretation and advice to adjudicators, with the adjudicator supposed to be making the final decision on the issue in question. It is also their role to communicate with the treating medical practitioners in order to clarify diagnosis or treatment questions.

The WCB Medical Services Division, aside from adjudication, is the most highly criticized department within the Board. In general the most common consensus is that it should be abolished altogether. Many respected medical practitioners describe the BC WCB Medical Services Division as the most incompetent, arrogant, unprofessional, and dysfunctional group of supposed professionals they have ever had the misfortune of dealing with. In fact in some cases, injured workers in BC have been

COMPARATIVE PROVINCIAL MEDICAL PRACTICES

BC	AB	SK	MB	ON	QC	NB	PEI	NS	NFLD
Does the WCB employ doctors?									
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
What is their role?									
Medical interpretation and advice to adjudicators	To give opinions on injured workers medical files	Review of IW's files	Resolve inconsistencies Provide expert opinions	Advise adjudicators and interpret medical evidence		To assess files and give medical opinions		There word is God	Medical & functional impairment assessments
Are there Medical Review Panels?									
Yes	Recently introduced	Yes	Yes	No	Yes	No	No	No	Yes
Are they working for IW?									
In some cases	Major problems at present	?	There are concerns	NA	No. IW usually have their rights denied.	NA	NA	NA	They work well in some cases
Who has final say over treatment?									
The treating physician, but can be overruled by WCB Doctors	Treating physician	WCB	IW/WCB	In theory, the Injured Worker	The treating physician until the file sent to the Bureau d'avaluation médicale	WCB	WCB	WCB	WCB & treating physician
Who has final say over diagnosis and relation to injury?									
WCB	WCB	WCB	Treating physician	Adjudicators	The treating physician until the file sent to the Bureau d'avaluation médicale	WCB	WCB	WCB	WCB & treating physician
Does the WCB restrict which doctors an IW can see for treatment?									
No			Some restrictions	Yes	No	No - some restrictions	Effectively, yes		No

BC	AB	SK	MB	ON	QC	NB	PEI	NS	NFLD
Is there a cap on medical fees?									
Fees are negotiated	WCB has increased medical fees to get faster treatment		?	Yes	No	Yes	Yes	?	?
Are there expected healing times?									
Yes	Yes	?	Yes	Yes	Not officially	Yes	Yes	Yes	Yes
Are IW penalized if they don't conform to usual healing times?									
Yes, they are cut off benefits	Yes, deemed 100% fit to RTW	Yes	Yes	Yes	Their case is sent to the Bureau Dévaluation médical	Yes	Yes, cut off benefits	Yes – cut off benefits	In some cases
Do IW have control over their own medical treatment?									
Not really	Not really	No	To some degree	Generally yes	Not really	No	?	No	In some cases
If there is disagreement, is the IW penalized?									
Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes – cut off	Yes

denied treatment because some medical practitioners refuse to deal with the WCB.

Medical staff and the adjudication staff at the WCB often dictate the decisions supposed to have been made on the balance of all information. In many cases, this happens without ever having examined or even spoken to the injured worker or the worker's treating practitioners. If there is any resistance from the injured worker or the treating medical practitioner to the Board's instruction, direct or implied, the result is the termination of benefits.

Evidence in a number of cases has been uncovered showing medical staff to have falsified medical reports, minimized medical evidence, and/or manipulated medical evidence and diagnosis to support or promote dis-entitlement.

In BC the Medical Review Panel is the final level of appeal and the decision is final and binding on the worker, the employer, and the Board in all but a few circumstances. A Medical Review Panel Appeal requires a doctor's certificate stating there is a bona fide dispute before an Appeal will be allowed.

The Medical Review Panel Department must agree that there is a medical dispute, then they will send a list of doctors. The worker chooses three doctors, the employer also gets the list and may choose three. The final panel is made up of one of the worker's choices, one of the employer's choices and a chairperson.

The WCB has the final say over the accepted diagnosis and causation outside the appeal process and consistently denies benefits based on disputed diagnosis and/or causation provided by a single unqualified Medical or Nurse Advisor or adjudicator, over the written opinions of multiple renowned specialists.

In practice the WCB sets out its own benchmarks for recovery of various injuries and occupational diseases in relation to the type of occupation and their own opinion regarding full or graduated return to work, or retraining for alternate employment. This practice seldomly exhibits any form of

consistency and is most often contrary to the advice of the treating medical practitioners.

In short, medical services in BC, as administered and manipulated by the WCB, generally undermine and interfere with the competent and sound medical practices and judgement of experienced qualified outside medical practitioners. The result far too often is permanently detrimental to the long term health and employability of the injured worker and therefore should be abolished. Leave the responsibility for medical treatment in the hands of truly competent and qualified medical professionals.

ALBERTA

The WCB in Alberta has Medical Doctors that are there to make opinions on Injured Workers medical files. These reports are very biased and are made by doctors who do not even practice within that field, (such as a general practitioner making a report on a back condition and overriding specialists within that field.) The Board accepts this and denies the Injured Worker their benefits.

Medical review panels have been in the Policy and Information Manual for some time, but now, due to pressure of a Private Member's Bill # 204, the Board has been pushed into using them. In the past they denied their existence. Injured Workers have been trying to use these panels where there is a conflict in physician reports. Unfortunately, there continue to be problems implementing these Medical Review Panels including:

- denial by the case manager who makes the decision whether a panel is required,
- untrained staff,
- slow set-up of these panels.

In the treatment process the Injured Workers Physicians have a say in their patient's care, but there is a gray area here as the WCB also has been known to send Injured Workers to facilities that they highly fund. The end result is often further disablement or injury to these workers.

WCB has made increases of 600% in medical fees. As well, a \$200 signing bonus is provided if surgical procedures are carried out within 15 days of the recommended surgery. [At the same time the WCB states this would not skew surgical list.]

WCB has a guide that they use for healing times and if you are outside these time frames they end up telling the Injured Worker he or she is 100% fit to return to work and benefits are discontinued and no further medical benefits will be paid.

SASKATCHEWAN

In the Province of Saskatchewan, injured workers find it hard to obtain the proper kind of medical assistance required to put them on the road to recovery or the strong doctor reports needed to support their claims. Injured Workers find it difficult to find Family Physicians or Specialists willing to take a stand on their behalf at the WCB even when all medical objective findings are in place.

We are finding that there are doctors who are reluctant to treat an injured worker. We have heard stories of doctors being harassed by WCB because of reports they have written. We experienced a case where a medical doctor outside the province treated a Saskatchewan injured worker, then had been called by the WCB. He called his patient back, verbally reaffirming his condition and warning him that the WCB will try to dissect him to place blame otherwise. He then REFUSED to accept any patients from out of province even after volunteering this injured worker additional assistance should the need arise. We ask why?

In Saskatchewan the injured worker is told by WCB what treatment he will receive, how many times and by whom, overriding family physicians, specialists and other medical professionals. Should the injured worker refuse, his benefits are denied. The WCB claims that he is non-compliant.

The Saskatchewan WCB has its own Medical Doctors, called "consultants". They review your file

without ever examining the injured worker. We have witnessed claims rejected because they have overruled specialists diagnoses, twisting what was reported in the original reports.

In regards to our Rehabilitation Centers, it is to be noted that they are funded by WCB. Claimants are forced into treatment and exercise therapy against their specialists advice. We have witnessed reports from the Rehabilitation Center that an injury will take a certain period of time to heal. If healing takes longer, as every person is different, reports have been sent back that the injured worker is not cooperative or it is all in their head. The injured worker's benefits are terminated as WCB claims non-compliance. We have seen cases where an MRI later proved differently.

We have encountered a number of injured workers who were given the option by WCB to have either Brain or Back Implants performed. At best, this was and still is a very experimental form of treatment. These same individuals are experiencing terrible side effects. Many have been chosen as study subjects as to the effects of this procedure. WCB has refused to acknowledge the adverse side effects as either a hindrance to work ability nor accepts responsibility to pay benefits, as this procedure was a direct result of the injury. Yet, in some cases, pays full coverage for thousands of dollars worth of medication required now to control the pain and side effects.

The Western Injured Workers Society (Sask) are striving to make changes to this unfair, unjust treatment to the injured worker as our motto is An Injury To One Is An Injury To All - Workers Helping Injured Workers. Our greatest wish would be to have a professional medical advisory and medical caregivers totally independent of WCB financial support or influence. This would eliminate any interference as to fair and just decisions made on behalf of the injured worker.

We call on CIWA and all Provincial Injured Workers Organizations to help us in Saskatchewan to make changes. This unfair, unjust treatment must stop.

We look forward to any input or suggestions from CIWA or from any or all other provinces.

MANITOBA

The Injured Worker has final say over treatment but, if WCB deems it is in the best interest of the worker to have a specific treatment and the worker refuses, there could be consequences.

WCB does not restrict which doctors you can see for treatment but this applies to your initial doctor or family doctor. If you want a second opinion from a different doctor you must have approval from WCB. Referrals can be made by your family doctor without WCB approval.

General observations on the medical system is that the system is in trouble. Some doctors do not keep up on current treatment protocol and in many cases do not refer to the appropriate specialist. Therefore diagnosis and treatment is not always accurate or appropriate. Injured workers can be cut off their claims or are unable to receive WCB benefits due to misdiagnosis or conflict in diagnosis from different doctors.

ONTARIO

My observations on how our medical services are working in Ontario are: They are working less and less, because hospitals are closing, OHIP is cutting back on treatments, and unless you are rich and can pay for treatment yourself you could be doing without the necessary treatment. Most injured workers cannot afford these costs. It's a lose-lose situation in Ontario for all injured workers.

QUEBEC

Au Québec, les victimes d'accidents et de maladies du travail sont souvent confrontées à des médecins œuvrant pour la CSST ou pour leur employeur. Et si notre législation prévoit que la CSST est liée par l'opinion du médecin traitant, il ne faut pas oublier

qu'un large chapitre de notre loi prévoit comment elle peut s'en défaire.

Au Québec, il y a d'abord les médecins travaillant pour le Bureau médical de la CSST à titre de salarié-e-s et qui ont pour rôle de «conseiller» les agent-e-s d'indemnisation sur les divers aspects d'une réclamation, particulièrement en matière d'admissibilité. C'est souvent à cette étape que des réclamations pourtant bien légitimes sont refusées.

Mais il ne s'agit pas là des seuls médecins qui œuvrent pour la CSST. En effet, le CSST au Québec a de très importants pouvoirs de contestation médicale. Si elle est en désaccord avec le médecin traitant sur le diagnostic, la date de consolidation, la nature ou la durée des soins, l'atteinte permanente ou les limitations fonctionnelles, elle peut exiger d'un travailleur qu'il se soumette à l'examen d'un médecin qu'elle choisit et qu'elle paie.

Suite à ce premier examen, la CSST peut soumettre le dossier d'un travailleur au Bureau d'évaluation médicale, relevant du Ministère du Travail tout comme la CSST elle-même, et qui est bien connu pour ses capacités de guérir miraculeusement les victimes d'accidents et de maladies du travail. Suite à la réception de l'avis du membre du Bureau d'évaluation médicale, la CSST doit rendre des décisions entérinant les conclusions de l'avis reçu.

Si le travailleur est en désaccord avec les décisions rendues, il doit les contester d'abord à la révision administrative, qui n'a le pouvoir de les renverser, et ensuite au Tribunal où les décisions faisant suite aux avis du Bureau d'évaluation médicale ont historiquement été renversées plus que maintenues. Il nous reste à voir si, avec le nouveau «tribunal» en place depuis le 1^{er} avril 1998, la situation demeurera la même...

The Medical Assessment Process in Quebec

In Quebec, injured workers are often confronted with physicians working for the CSST* or for their employer. Although our legislation provides for the CSST to be bound by the attending physician's opinion, we must not overlook the fact that a large

chapter of the law holds provisions for doing away with it.

In Quebec, first there are the medical doctors working for the CSST's Medical Bureau as paid employees with the role of "advising" the compensation agents on the different aspects of a claim, particularly in the area of eligibility. It is often at this stage that legitimate claims are rejected.

However, these are not the only doctors working for the CSST. Indeed, the CSST has very important powers of medical dispute. If the board disagrees with the attending physician over the diagnosis, the consolidation date, the nature or duration of care, the permanent injury or functional limitations, it can require that a worker submit to examination by a physician it chooses and pays.

Further to this examination, the CSST can submit a worker's record to the Medical Assessment Bureau, coming under the Department of Labor, as does the CSST, which is well known for its ability to miraculously heal injured workers. Following receipt of the opinion by the member of the Medical Assessment Bureau, the CSST must render decisions confirming the results of the opinion received.

If a worker disagrees with the decisions rendered, he or she must contest them, first during the administrative review—which does not have the power to overturn them—then with the tribunal where historically decisions made following the Medical Assessment Bureau's opinions have more often been overturned than upheld. It remains to be seen if, with the new "tribunal" in effect since April 1st, 1998, the situation will remain the same...

NEW BRUNSWICK

The solution to the medical services in New Brunswick is Deeming. Regardless if you can do it or not. Long term injured workers are forever on trial and will always have a battle defending themselves against the Board and the professional opinions of the specialists.

NEWFOUNDLAND

One of the major problems that confronts injured workers, is trying to convince or explain to the Commissions doctors that you are injured and in pain. For some reason, yet unexplained you are told that your pain is all in your head. "There is no objective medical evidence on your file which indicates that you should be having the level of pain you insist you are having." This statement is all too common in injured workers medical files.

Secondly, the idea that a Functional Capacity Evaluation (FCE) which is performed over a 2-3 hour period by an Occupational Therapist can over ride and carry more medical weight then a Orthopedic Surgeon, who has been treating his or her client for, in some cases for a year or more. This was a serious concern for this association until this year.

This practice is now discontinued. Medical specialist reports now will take preference over an Occupational Therapist's report. This practice, while in place, has destroyed the lives of many an injured worker. This was one of the major recommendations this association put forth during last years Workers Compensation Statutory Review Hearings.

NOVA SCOTIA

When a person is sent to see a specialist, if the decision is not in favor of the WCB, then the board doctor rules in favor of the WCB.

PRINCE EDWARD ISLAND

On PEI, we have to go to our family doctor's after being injured. They in turn send reports to WCB. The Workers Compensation doctor has final say in your treatment. This doctor is employed by the WCB. The WCB doctor on PEI sends you to another province, then the injured worker has to go back to the WCB doctor who overrules the other

doctor's opinions. Then the injured worker is cut off his or her benefits.

Our biggest problem with this doctor is that his wife is running the business called the S'side Physiotherapy Centre. There are a number of injured workers who are referred to this Centre for treatment.

It seems there is something happening between WCB, Doctor Wedge, Maureen (Rogers)Wedge and her clinic. We will leave all thoughts to the readers of this newsletter. If more of this information is desired by the readers we will be quite willing to relate further to this subject in great detail.

ORGANIZING ON THE NET

As we grow more comfortable with the Internet, we will be learning new skills and acquiring new tools. These may have a tremendous potential for organizing; for including more people; for broadening the discussion.

We will need to share our successes with each other so we can fulfill this potential. One of the ways to do this is through injuredworkers.online.

The address for their web site is <http://www.injuredworkers.org/>

Letters to the Editor

Dear Editor:

Well, I guess it is time to get some of our news in PEI into the CIWA newsletter.

First of all; Greetings to all injured workers across Canada from the smallest province called Prince Edward Island. Even though we are small, good things come in small packages so they say.

We became a registered corporation in 1998. Injured workers thought we were all by ourselves in dealing with the unfair practices of the Workers Compensation. We found out by meeting other injured workers at Memramcook, New Brunswick we were not alone. Because of the Speakers Bureau and correspondence from Steve, Jim, Austin, other e-mail friends too many to mention, this gave us the boost we needed to formulate a plan of action to help other injured workers on PEI.

By being part of the CIWA we even found we are not scared of the Workers Compensation realm, and by helping each other we in part help ourselves, by gaining confidence in each other, supporting each other and when there are problems encountered, we all can help each other.

Clarance Fraser
PEI Coalition of Injured Workers

Dear Editor:

When a person gets injured on the job, and the employer doesn't want him back because he is not 100% back to normal; and the WCB says that the injured worker has reached his maximum medical recovery (whatever that is)

and there will be no further benefits; and the injured worker has no job and no WCB benefits, do you think it is possible the Federal government might hire Dr. Jack Kavorkian to resolve some of these situations? Perhaps they could call it a DEAD ISSUE.

I. M. Waiting

Want to get involved ?

*To connect with the injured workers group nearest you, check out our website at www.ciwa.ca and click on people and organizations.
Or call the office at (807) 345-3429.*

NEWS & VIEWS

Federal NDP wants Tougher Penalties for Safety Violations

By DEAN JOBB, Staff Reporter - The Halifax Herald Limited

Corporations convicted of operating dangerous workplaces could face multimillion-dollar fines, and their executives and directors could be jailed under amendments being proposed by the federal New Democrats. "We have to hammer home that safety of workers has to be the No. 1 priority, and it comes before profits and it comes before anything," Cape Breton MP Peter Mancini said Tuesday from his Ottawa office. "People are entitled to a safe work environment."

The member for Sydney-Victoria raised the issue Tuesday in the House of Commons, one year after release of the inquiry report into the deadly 1992 explosion at the Westray Coal Mine.

Justice Peter Richard's report called on the federal Department of Justice to examine whether new laws are needed to hold officials and directors accountable for crimes committed by their companies. Mr. Mancini, who criticized the government's lack of action on the recommendation, said his party plans to introduce a private member's bill to make the necessary amendments to the Criminal Code. A draft of the bill, dated Nov. 30, contains the following provisions:

- Corporations could be found guilty and fined up to \$500,000 for any offence for which a person can be convicted. Firms convicted of murder or manslaughter would face a fine of up to \$5 million;
- Companies could be convicted of authorizing, condoning, or ignoring unsafe practices, or allowing "the development of a culture or common attitude: among employees that such acts would be tolerated";
- Firms could be fined up to \$100,000 a day until unsafe conditions were rectified; Directors could be imprisoned up to three years and fined \$10,000 for each day unsafe conditions existed.

- Justice Richard's report concluded Westray management was "derelict" in its safety duties and put profit ahead of the welfare of workers

Twenty-six men died when the mine exploded. The inquiry uncovered a wide range of risky and illegal practices. The mine's bankrupt parent company, Curragh Inc. of Toronto, and on-site managers Gerald Phillips and Roger Parry were charged with manslaughter and criminal negligence in 1993.

The charges were withdrawn in June. Nova Scotia prosecutors announced convictions were unlikely, given conflicting evidence about how the explosion occurred. No one has been convicted of a crime or breach of safety regulations in connection with the explosion. Had the proposed amendments been law in 1992, Mr. Mancini believes the disaster could have been averted.

"If the directors know that they can be responsible in a criminal sense, they're going to ensure . . . that safety measures are being met." The Justice Department's criminal-law policy section is studying Justice Richard's recommendation. Department officials could not be reached for comment.

The NDP amendments are expected to be introduced early in the New Year.

TWO SURGEONS WERE WATCHING A MECHANIC WORK ON A CAR WHEN ONE REMARKED, "YOU KNOW DOCTOR, BEING A CAR MECHANIC IS PERHAPS AS COMPLICATED AS THE WORK WE DO.

"MAYBE," THE OTHER SURGEON REPLIED, "BUT LET'S SEE HIM DO IT WHILE THE ENGINE IS RUNNING."

WE NEED YOUR HELP !!

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Editor's Note

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