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Law Amendments Committee
c/o Legislative Counsel Office
CIBC Building, Suite 802
1809 Barrington Street
Halifax, NS B3J 2X1
Legc.office@novascotia.ca

Re: Bill No. 464 – Stronger Workplaces for Nova Scotia Act

Our organization is pleased to provide a submission on Bill No. 464.

Occupational Health and Safety Act

In matters respecting workers' compensation, any harassment by an employer often commences at the time of a workplace injury and can continue throughout the recovery and return to work phase. In addition, injured workers often suffer severe harassment from WCB employees and service providers during the case management and treatment phases of their claim.

The legislation needs to specifically identify harassment includes that from employers, WCB employees and treatment service providers.

Workers' Compensation Act

Clause 19 – the inclusion of a purpose of the Act is supported. However, the provisions make no reference to the founding principles of the workers' compensation system, that is, the Meredith Principles of no-fault compensation, security of payment, collective liability, independent administration, et cetera. The promotion of health and safety, facilitation of rehabilitation and return to work, and stakeholder collaboration are programs and activities, they are not the legislative purpose.

The focus should not be on returning to work quickly after an injury has occurred. The focus should be on preventing injuries from occurring. Prevention has failed if a return to work is needed!

If return to work is needed, the focus should be on the safety of the return to work, not on the timeliness. In practice, the WCB Return to Work Program is focused on a quick return, not upon a safe return to the workplace.

Clause 21 – a legislated requirement for employers and workers to cooperate in a return to work is positive for the system. However, it is the Workers' Compensation Board that often fails to adhere to the legislation, particularly with respect to determining the safety of a RTW plan and enforcing the re-employment obligations of employers.

Many workers experience new and recurrence of injuries while participating in return to work plans due to the WCB focus on early return to work resulting in increased harm to a worker and unnecessary system costs. While WCB and employers are eager to have workers back to work quickly performing light or modified duties, both WCB and employers typically fail to adhere to the legislative requirement to provide a permanent accommodation. This failure results in economic hardship to the worker and increased costs to the Accident Fund due to unnecessary functional assessments and vocational rehabilitation support for job searching, and for additional wage replacement benefits until age 65.

The failure of the WCB employees, officers and directors to enforce legislative provisions is an action of bad faith. An additional amendment to s. 167 to remove the civil immunity for bad faith actions occurring for acts and omissions occurring within the jurisdiction of Part I of the Act will instill immediate accountability of the WCB to adhere to the legislative provisions and will result in decreased claim costs.

The clause 89A (3)(1)(a) financial penalty on the employer "...in respect of injuries that occurred to the employers' workers during the period of non-compliance..." is confusing. Is the intent for the penalty amount to be the compensation payable to the specific worker during the period of non-compliance, or for the claim cost of injuries occurring to all workers of the employer during the period of non-compliance? The language should be clarified.

The clause 89A (4) penalty for non-compliance by a worker is redundant and should be removed. Section 84 is consistently, and often overzealously, utilized by WCB in situations of worker non-compliance or failure to comply in RTW or other activities related to a claim. A second clause with essentially the same language is not necessary.

Clause 23 – a review of the workers' compensation system every 5 years has our full support. However, to ensure the independence of the committee, it is recommended the provision be amended to state the members of the committee be representatives of the employer, employee and injured worker communities and that the committee members elect a Chair of the Committee. It is also recommended WCB employees, officers and directors are excluded as members of the committee and serve only for technical, clerical or administrative assistance.

With kind regards,


Mary Lloyd
President