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I will be speaking today on behalf of myself and injured workers dealing with Chronic Pain Syndrome and the difficulties we face in regards to receiving fair and equitable treatment in today's society from the insurance companies, the current medical system and the public perception of people with disabilities. My presentation will be of primary interest to the disabled with low back injuries, business and the public.

From a financial standpoint the costs are enormous for all parties dealing with Chronic Pain Syndrome.

- Chronic Pain Syndrome accounts for 75% of overall health care expenditures
- A study done in Britain in 1994 found that 85% of people with Chronic Pain were unemployed
- In the U.S. each year, 24 billion is spent directly on the care of patients with low back injuries, and 10% of individuals account for 80% of the costs.
- In all western countries low back injuries are steadily increasing:
  - a) In Ontario in 1982 neck and back surgery was 100.3 per 100,000 men aged 20 - 64 years of age
  - b) in 1992 neck and back surgery was 119 per 100,000 men aged 20-64 years of age
- The appropriateness of surgery has been questioned repeatedly and the failure of spinal surgery creates a large burden on patients and society.
- Low back pain has become the most common and expensive cause of Chronic disability in adults under 45 years of age and one of the most common reasons for early retirement in industrialized countries.

In the U.S. of low back injuries  
74% were back to work in 30 days  
19% were back to work in 6 months  
of the remaining 7% many of them never returned to work, they accounted for:

- 70% of work days lost due to work injury
- 73% of the medical care given
- 76% of compensation benefits

As indicated above a small percentage of workers are responsible for the majority of all medical costs and benefits paid out by the W.C.B.s. As an example of the cost in Quebec, 7% of very long term claims absorb about 70% of W.C.B. expenditures, if you compared this to the Manitoba W.C.B. for 2002 you would have:

	Injuries	claims expenditures
7%	3,008	\$92,337,000.00
93%	39,983	\$39,573,000.00

For the Canadian taxpayer to get an idea of what the cost will be in 2004 for low back injuries. We will look at a study done in the U.K. in 1993. With a population of 58 million in 1993, the estimated work loss was 52 million days and payment of 105 million days of social security benefits paid for low back pain. The figures are similar throughout western societies so if you compared the above figures to Canada with approximately half the population of the U.K. for 1993. You would have an estimated work loss of 26 million days with 52.5 million days of social security benefits paid. If the average benefit paid in 1993 was \$80/day you would have a cost of \$4 billion, 200 million, and considering that the problem is growing every year, factoring in the increased cost of living for 2004 the bill for benefits alone could be in excess of \$6 billion.

If you include the cost of medical services associated with the treatment of low back injuries, the cost to the business community in the premiums they pay and the retraining of replacement workers, society having to help support the disabled when the insurance companies terminate benefits, the cost to the families having to provide support, the cost of medications, etc. The cost to Canadians for the year 2004 could be 15-20 billion dollars.

The figures I have quoted above show the enormous financial problem that society and the insurance companies are faced with in dealing with Chronic Pain Syndrome. So it should be of no surprise to anyone that recently the Supreme Court of Canada found the W.C.B. in Nova Scotia guilty of violating the constitutionally guaranteed rights of workers suffering with Chronic Pain Syndrome.

The dilemma faced by the W.C.B. in Nova Scotia to cut costs is something all public and private insurance companies are faced with and they have to target the most costly expense in doing so and this means that those workers with low back injuries have to bear the brunt of the cuts. Just recently on the Radio a

representative for public insurance stated that half of all claims had to be rejected.

They are four reasons why the Insurance companies are able to target the disabled, the first being that in addition to the physical disability is the accompanying mental disability, quite simply the disabled workers dealing with Chronic Pain cannot defend themselves. Professor Emeritus of Osgoode Law School wrote that the majority of claims are straightforward, causing little or no stress for claimants, or for anyone else. But in some cases, the result has been fatal. This has also been the case in Manitoba where injured workers have killed themselves.

The second reason is the public perception of the disabled that they are faking their injuries, neurotic, malingers. liars, drug addicts, monetary gain. A comprehensive study done in 1994 at Dalhousie University in Nova Scotia found many of the above beliefs in regards to the disabled were wrong. Some of the findings were:

- a) Physicians who see a more representative sample of W.C. claimants state that the majority want to recover and return to work and a minority (probably 10% don't). There are two groups who may cling to their disabilities as a source of income. This group is large when unemployment is high, and those who are worn down and no longer fit for the manual jobs that have been their lifestyles. The only thing left for them is welfare or pension.

- b) Compensation can prolong recovery and response to treatment but these differences disappear after 3 months. One of the reasons given for this is possibly the adversarial nature of the compensation system generating fear, anxiety and depression for the claimant.

In regards to fraud I don't personally believe that it is as common as the insurance companies would want you to believe, there will always be some malingering on the part of a small percentage of workers. and my viewpoint is shared by the New Brunswick W.C.B., to them fraud detection is not a key priority, they don't spend much time or money on a small number of claims.

The third reason is that the Manitoba W.C.B. sees itself not necessarily as being there for the injured workers but as an insurance company. An insurance company is there to make money and they do this in order to satisfy the shareholders. In the 1980's there was a great deal of anger at the fact that the W.C.B. of Manitoba was in a deficit position, but currently the W.C.B. has a huge surplus and there is no concern raised. If it was so wrong for the W.C.B. to have a deficit then I believe that it should also apply to any surplus.

The fact that there are no complaints being raised by the political parties indicates

that they view the W.C.B. as an insurance company. This viewpoint is supported by the Chairman of the W.C.B. XX where he was quoted on July 9th 1997 by the Winnipeg Sun as stating that he knew exactly what the board's mandate is. "There's no doubt in my mind that it is an insurance system. We're not a welfare agency, we're an insurance company".

How does an insurance company please its shareholders? They have to bring in more revenue than they pay out, its that simple. And you do this by cutting benefits, on May 13/1997 XX was again quoted in a newspaper article that "there's no doubt part of our ability to pay off our debt and part of the surpluses we have accumulated are related to what we pay out in benefits".

In Edmonton Alberta in 1999 a former W.C.B. employee came forward and stated that workers were pressured by their supervisors to deny claims or reduce payments to injured workers as a cost saving measure. The focus was on liability-how-much liability are case managers able to clear to protect employers who fund it.

Methods used were:

- 1) saying the employee was capable of doing some work, when we know he's not
- 2) you tell the injured worker they have a pre-existing condition
- 3) old claims were dug up, and workers who had received entitlements for years were phoned and informed that they were capable of earning more, and that the next week their cheque's would be less.
- 4) keep denying and the worker will give up.

And the fourth reason is that the Act itself is structured in such a way that the workers are not protected in any way by the current legislation. This is not only my opinion but I will quote from Justice Maclean of the Alberta Supreme Court who made his opinion clearly known on Feb. 3/1999 regarding the W.C.B. Act of Alberta which is for the most part identical to Manitoba's.

The Board is a statutory body whose primary purpose is to protect employers by bringing uniformity, efficiency, expeditiousness and cost-saving measures to selected accidents which occur in the employer worker relationship. It accomplishes this purpose by restricting rights of workers to have their right to compensation and the extent of the compensation determined by the Board. It cannot be said that the Board is dependant insofar as the worker is concerned. It is a Board set up to protect the employers. The board is funded by the employers, and

the Board has a duty and probably a primary duty to protect the employer. In relation to the worker, the Board has an overwhelming wealth of knowledge and experience. It has the financial ability to fund sophisticated investigations involving qualified experts and have the material presented to them, guided, orchestrated and propounded by its in-house counsel responsible to the Board and paid for by the Board.

The applications of any standards under the rules of natural justice would identify such circumstances as being unequal in negotiating ability and unfair. This is not a level playing field, it is not fair, and it offends the basic principles of natural justice.

One of the statements made by the W.C.B.s to defend themselves when workers complain of the treatment they receive is that the majority of workers are satisfied. And the above statement is true. The majority of workers are satisfied. In 1998 the Alberta W.C.B. director of communications stated "overall worker satisfaction was 78%. However, she failed to say that satisfaction among workers with long-term claims was only 56%. Long term claims are approximately 7% of all reported injuries and they account for 70% of the costs.

The fifth difficulty the disabled workers face is the problem in diagnosing and the treatment of low back injuries and the Chronic Pain that accompanies it. A study done in New Zealand in 1988 documented certain findings:

- 1) Inappropriate assessments and diagnosis were being given
- 2) The role of the Orthopaedic Surgeon was the sole person responsible for the assessment and treatment of Chronic Pain
- 3) In outlining the methods of accurate examination for pain disorders in the injured patient, most physicians had not been given much information about chronic pain in their training and postgraduate education. This contributed to delays in diagnosis and treatment, prolonging the disability of the worker and as a result controversies in the determination of temporary and permanent disability.
- 4) The physician was often put in an awkward position between the patient and the W.C.B. The physician's role is to care for the patient, but these agencies require the physician to act on behalf of the agencies in a way that may bring them into a conflict with their own patient.

I have only touched briefly on some of the reports that have been done in the past, but they document the problems that the disabled are faced with in their dealings with low-back injuries and subsequently the Chronic Pain that accompanies the injury. The fact that the insurance companies have to target the disabled to cut costs should come as no surprise to anyone, in our culture today the financial

aspects often protect the rights of the special interest groups rather than the rights of the general public.

It is my opinion that the Nova Scotia W.C.B. targeted the disabled workers with low back injuries to cut costs instead of insuring that the workers received the proper medical treatment. And it is my opinion that this practice is being done by all the insurance companies and it is condoned by our present political parties. The amount of money low back injuries generate medically is I believe the primary reason this practice is allowed to continue.

I will be touching briefly on my claim to show what I believe is occurring in regards to low back injuries and why I believe it to be deliberate.

I was and still am an injured worker and in regards to my injury that I sustained on Nov.511988 the Objective Clinical Evidence documented was.

- a) Ferguson's Angle - 50\* (normal is 35-40 degrees) and the gravity line is moderately anterior
- b) The Lordosis is normal (the forward curvature of the spine)
- c) The Lumbar spine leans slightly to the right
- d) The L5 disc is mildly narrowed
- e) The facets at L4-L5 are asymmetric

What has occurred in this injury is that it is caused by injured muscles in the Pelvic region, in my case it was the Piriformis and the Gluteus Medius muscles in the right hip and the Quadrates muscle in the lower right side. When the Piriformis muscle was injured it went into a spasm pulling the Sacrum out of alignment, the Lumbar spine was forced to compensate by bending to the left and the Vertebrae at the L5 disc level were forced to compress causing the disc to bulge.

The focus by the Chiropractors, Orthopadic surgeon, Neurologist, and the W.C.B. was on the bulged disc as the cause of the disability and treatment was given, the X-ray findings of an injury to the Pelvic area were ignored.

The treatments given is not successful in correcting the problem and 7 months later another X-ray is taken and the results show that there is now a problem in the cervical spine. The cervical spine is leaning to the left and the results of the X-ray are considered normal and no treatment is given. What has occurred in 7 months from the date of the injury is that the spine has assumed an S shape and once again the X-ray reports are considered normal.

The focus continues to be on the disc as the cause of the injury, the treatment given is unsuccessful and almost a year later a partial disc removal is attempted and the surgery is unsuccessful. When the surgery fails to resolve the problem, Rehab is recommended even though the medical reports indicate that all activities are to be avoided, when I am unable to do the recommended Rehab, the benefits I was receiving are cut and I am put on a disability pension of \$67.05 per month.

I continue to be disabled through to 2001 when a Physiotherapist examines me, the findings are similar to the X-ray results taken when I injured myself. Treatment is given to the injured muscles in the Pelvic area and low back, during Rehab the problems documented in regards to the spine, correct themselves and 4 months later an X-ray taken of the Pelvic area shows no abnormalities found in the area of the Sacrum. A month later I return to work

From personal experience I can say that the injury to the Pelvic region that I had is excruciatingly painful a physiotherapist in the health care system informed me that having the Sacrum out of alignment the way it was would be the equivalent of having a dislocated shoulder

Certain recommendations were made in New Zealand following the study done in 1988 and I would recommend they be adopted in Manitoba. One of the recommendations made was an appropriate mechanism for the complete assessment of the patient diagnosed with Chronic Pain Syndrome be established. Assessments to be done as early as possible and the goal of rehabilitation at the forefront of management and the establishment of goals to achieve this. To do this I would recommend:

- 1) that 4 clinics be established in Manitoba, one in the south, one in the north, one in Brandon and one in Winnipeg.
- 2) each of the clinics have the necessary diagnostic equipment required to insure that waiting lists be eliminated as much as possible.
- 3) the clinics be staffed with Health Care Professionals trained in the assessment and treatment of patients with muscle injuries. The Health Care Professionals to be paid yearly rather than by the patient, the reason I suggest this is that currently Chiropractors and Doctor's are paid by the patient, this puts them in a

conflict of interest between doing what is in the best interests of the patient or the financial interests of the Doctor.

- 4) one of the recommendations made from the study done in New Zealand was that the role of the Orthopaedic Surgeon be minimized in regards to the management and treatment given. I would go even further than this, I would suggest that the

roles of the Chiropractic association and the Orthopaedic Surgeon be eliminated altogether.

5) rehabilitation to be done in conjunction with local fitness centers where qualified staff are located trained in working with muscle injuries

When a diagnosis of a muscle injury is made by a Chiropractor or Physician outside of the Clinics the patient is automatically sent to the nearest Clinic for assessment and the appropriate treatment.

To insure that medical reports not against the disabled I would recommend:

- 1) a data base be setup where all medical reports concerning the injured worker be entered, and that the Patient's doctor to be in control of the information.
- 2) the patient's doctor makes the decision regarding the disability status of the patient as they see the patient on a regular basis
- 3) any public or private insurance company that needs medical information in regards to the disability of the patient contacts the doctor thereby eliminating the need for filling out countless insurance forms and the long delays that processing these forms currently cause
- 4) the release of medical information prior to the date of the injury can only pertain to the injury itself, currently when the W.C.B. requests medical information prior to the date of the injury, the patient's doctor releases all information, and this is wrong. There could be sensitive medical information on the patient's file not pertaining to the **injury** and if there is a dispute between the patient and the insurance company such information could be used against the patient to silence them.

The above recommendations to be funded out of the current assets the W.C.B. has accumulated and when the recommendations are in place that all public insurance schemes currently in place to deal with injured workers be eliminated.

To replace the current method of paying disability benefits I would recommend that a system be set up so that when the patients doctor indicates that the patient is disabled:

- 1) following a set period of time (perhaps 2 weeks) from the time of the injury a set amount that is the same for everyone is paid to the worker, as a suggestion \$1,500 per month with a certain amount per dependant, perhaps \$200.00 per month. If a worker wants to purchase additional insurance that is there choice.
- 2) the benefits to be paid out of general revenue
- 3) the injured worker could not be taken of disability benefits until the medical reports indicate that the person is able to return to work and not before.

4) there must also be consensus regarding the degree of disability. In my file the W.C.B. claimed that I had a 5% disability and my doctor indicated I had a 15-20% disability. It is apparent that one doctor had my interests in mind and the other Doctor had the insurance companies interests in mind. Quite the discrepancy and it makes me wonder as to the \$ difference between the two.

When the above is completed the government set up an independent tribunal to review every low back injury and any workers diagnosed with Chronic Pain Syndrome and if it is found that the diagnosis and treatment given was incorrect to fairly compensate financially every person that has remained disabled through no fault of their own. The review to begin with the most recent injuries, for myself being disabled for 13 years the muscles in my hips and lower back no longer stretch the way they should and essentially my days of doing physical work are finished. I have documented above will no doubt generate a great deal of antagonism from the W.C.B., the Unions, the Medical Association and the Chiropractic Association but my focus has been on the best interests of the disabled workers and the Public trust. I believe that much of what is currently being done in regards to the treatment of low back injuries is of no value to society and the money currently being wasted could be spent elsewhere

The elimination of the salaries currently being paid to run the various public insurance schemes could possibly fund and premiums and medical costs associated with my solution to the problem

If the W.C.B. is to remain, the business community must

- 1) insure that the workers receive proper treatment, by doing so, it would possibly cut the premiums they are now paying in half
- 2) insure that all Case Managers, Adjudicators, the Fair Practice Office, and any other department involved in reviewing the medical information of claimants have at the very least the qualifications of a Physiotherapist and that they have the power to over rule any Doctor's report that is incorrect and not in the best interests of the injured worker
- 3) the Appeal process that is currently in cannot be paid by the employer or have any connection with W.C.B. personnel
- 4) the current Fair Practice Office must be titled the Ombudsman Office, by law the Ombudsman must be impartial, the Fair Practice Office by law has no meaning. The Ombudsman cannot be paid by the employer or have any connection with the W.C.B. or any of its personal.

In closing I would like to take you back to the beginning of my presentation. I

quoted from a study that stated that Chronic Pain Syndrome accounts for 75 % of overall health care expenditures. To put this into perspective this means that 75% of every dollar Manitoba spends on health is related to treating pain. I would also take you back to the study done in New Zealand where they found that doctors were not qualified to deal with the problem. The above findings cannot be ignored, the political parties must insure that the Doctor's who are supposedly assessing these injuries actually know what it is that they are doing, to say well a Doctor said such and such cannot be blindly accepted in lieu of the above documented findings.

Another part of the report was the problem that the failure of spinal surgery created on patients and society. The above findings regarding the failure of spinal surgery is what happened to me, the surgery done to my spine should never have done. In speaking to numerous people with low back injuries I have found that many of them are receiving treatment to the spine as I did, when in fact the problem is in the Sacrum and the muscles. I would warn any person who is being informed by Doctor's that a partial disc removal or the fusing of the vertebrae be done to first of all insure that the cause of the problem is not the Sacrum being pulled out of alignment by injured muscles. Diagnosing and correcting the problem in the Pelvic area is very easily done with minimal cost.

The Supreme Court ruling that the Nova Scotia W.C.B. was involved in human rights abuses must also be examined in Manitoba regarding the W.C.B. The N.D.P. must call for a Judicial Inquiry into this matter and criminal charges be filed against anyone involved in human rights abuses.

The current W.C. Act must be changed to conform to the Charter of Rights and Freedoms and the Act must protect the rights of the workers. Workers should not have to live in fear when they injure themselves.

I believe that the recommendations made by New Zealand in rectifying the problem of dealing with pain be adopted immediately and steps put in place by the N.D.P. to insure that the best interests of not only the patient but the public trust take top priority in health. In regards to the Human Rights Museum that is being proposed for Manitoba I would suggest that it be put on hold until the rights of the disabled are recognized under the Charter of Rights and Freedoms that all Canadians are supposedly entitled to.

I would also suggest that a review be done to find out how widespread the problem is in Manitoba and I would gladly head up such an inquiry. If anyone is interested

in doing public hearings into the issues I raised regarding the treatment of the disabled, contact me, any suggestions and financial support would be appreciated.

Thank you