



Manitoba Heavy Construction Association (MHCA)

Presentation to the

**Workers Compensation Act Review
Committee 2004**



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Canad Inn Garden City

Submitted by: Manitoba Heavy Construction Association
Safety Health and Environment Program (SHEP)
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Background

The MHCA represents the heavy civil construction industry in Manitoba. During peak season periods we directly and indirectly employ roughly 15,000 Manitobans in the areas of construction in which we are engaged.

The MHCA has been involved in an industry self-funded safety, health and injury prevention program since 1990. In January 2000, the MHCA integrated environment training resulting in a seamless Safety Health Environment Program (SHEP), the first of its kind in Canada. SHEP fully integrates each program element into workplace activities and practices, such that they become key components in carrying out work safely and environmentally responsibly, without requiring a separate focus.

As the program has expanded and become more widely accepted by the industry, so has the demand for services. The SHEP program works with over 700 contractor companies in Manitoba. Its role is to help the industry comply with various regulations while assisting in the organization and implementation of accident prevention and mitigation programs.

The benefits of our Safety Health and Environment Program (SHEP) include:

- 1.1. Reduction in workplace accidents;
- 1.2. Reduced injury severity;
- 1.3. Assistance in establishing safety, health and environment workplace programs;
- 1.4. Increased understanding of and compliance with safety, health and environment regulations;
- 1.5. An integrated "SafeWork" culture benefiting workers and their employers;
- 1.6. Greater protection to the general public, property and the environment;
- 1.7. Enhanced training material resources and research;
- 1.8. Increased cost effectiveness and competitiveness in project bidding;
- 1.9. Lower WCB claims costs.

The MHCA appreciates the constructive relationship it has with the WCB in delivering its Safety Health and Environment Program (SHEP) and looks forward to its continuation.

Introduction to Recommendations

The MHCA is a member of both the Employer Task Force on Worker Compensation (ETF) and the Manitoba Employers Council (MEC). We support the positions articulated by those organizations.

The MHCA is pleased to be able to provide practical solutions to the Review Committee on the Workers Compensation Act.

Injury Prevention; Worker Compensation; and Legislative & Regulatory Enforcement

Workplace safety involves at least three primary areas of mandate focus, those being:

- *Injury Prevention;*
- *Worker Compensation;* and
- *Legislative and Regulatory Enforcement.*

The Worker Compensation Board of Manitoba (WCB) corporate mandate should focus on two of the above areas of responsibility, namely *Injury Prevention* and *Worker Compensation*.

Injury Prevention assumes:

- Support, promotion, encouragement of training and education programs;
- Public relations efforts aimed at influencing public opinion; and
- Supporting and encouraging the creation of industry funded programs such as SHEP and others, with priorities developed in partnerships with such training initiatives.

The first goal of public policy should be to promote the message that an unsafe workplace or practices are socially and morally unacceptable (MPI program classic example). The second goal is to meet and exceed the government identified target of reducing accidents.

The *Worker Compensation* mandate should focus on:

- Expedited medical diagnostic, treatment and rehabilitation services;
- Promotion of return to work programs;
- Equitable financial compensation for financial loss; and
- User friendly and cost effective service delivery.

The third area identified above deals with *Legislative and Regulatory Enforcement*. These areas of responsibility should be the sole responsibility of Workplace Safety & Health Division of Manitoba Labour, though funded as it is now, by the WCB.

It is important for credible enforcement to ensure a separation of prevention and compensation mandates, from the enforcement side of responsibility.

Arm's length enforcement assists in persuading that an unsafe workplace is not only socially and morally unacceptable, but is also not tolerated under the law.

This approach would be consistent with successful programming in other provinces such as B.C. and Ontario.

- **Recommendation #1 – *Injury Prevention* and *Worker Compensation* should be the priority mandates of the WCB. Enforcement of legislation and regulation should be the unfettered mandate of the WS&H Division, though funded by the WCB.**

Name

What's in a name? Everything. If the mandate of the WCB is adjusted to reflect the two principle priorities, namely injury prevention and worker compensation, it follows that its name should be corrected to properly and pro-actively reflect its mandates in its messages. Its name should not reflect or focus on only one of its two areas of primary responsibility. Accordingly we urge consideration of a name change.

- **Recommendation #2 – Change the name of the WCB to the “Injury Prevention and Compensation Board of Manitoba.”**

Reorganize and Simplify Language in the Legislation

The current Act is difficult and cumbersome to read, evaluate or understand. The current review provides an opportunity to simplify the language and organize the Act contents so it flows in an organized, logical and sequential fashion.

- **Recommendation #3 – Re-organize and re-write the Workers Compensation Act to improve its order, flow and clarity.**

Broaden Coverage

WCB coverage should apply to more than 70% of the workplace that is now covered. Serious consideration should be given to broadening coverage to all workplaces unless specifically excluded.

- ❑ **Recommendation #4 – Broaden WCB coverage to include all workplaces unless specifically excluded.**

Certificate of Recognition (COR) or Equivalent Recognition

Industry has established a nationally recognized Certificate of Recognition (COR) program. It creates safety program standards, and tests their implementation through third party audits. The COR program meets and often exceeds what is required of workplaces in legislation.

COR certification does not come easily or quickly. It requires employer/employee “buy in” to the notion of developing, implementing and maintaining a safe, healthy, environmentally responsible workplace program, designed to prevent injury and minimize exposure to serious injury.

COR certification requires audit verification by third parties, annual self-audits approved by program agents, and third party audits every third year to maintain COR certified status.

COR was developed and is maintained with partnership involvement of government regulatory agencies. Given the importance of mobility to the construction industries, a COR recognized/certified company can compete in each jurisdiction in Canada.

COR certified companies demonstrate commitment to broad safe workplace public policy, set positive role model examples to other industry participants, and most importantly provide safe workplaces for employees. Such investment merits recognition through the WCB rate system.

- ❑ **Recommendation #5 – Establish a WCB rate incentive or rebate for COR or equivalent injury prevention program certified companies.**

Self-funded Programs

The current industry self-funded industry safety programs in Manitoba work. They reflect a partnership between industries, WCB and WS&H. A model of such programs should be used to encourage other industry sectors to participate. The WCB could create a proactive *Injury Prevention Partnership* program between industry sectors and WCB.

- ❑ **Recommendation #6 – Encourage self-funded industry safety programs such as the ones currently established in the construction industries.**

Eliminate Annual Earnings Cap

WCB system is a no-fault system. However, existing legislation caps annual earning coverage. An individual or family relies on existing earnings and an injured worker should be eligible for compensation related to their actual earnings. The cap on earning for compensation should be removed.

- ❑ **Recommendation #7 – The annual earnings cap should be removed.**

CPP Benefits

When an injured worker is entitled to benefits through the WCB system, CPP contributions are not continued. This negatively impacts benefits received at age of entitlement. Injury at a workplace should not disentitle the worker to CPP pension amounts that would have been paid but for the injury.

- ❑ **Recommendation #8 - CPP contributions should continue to be paid in during the claim period.**

Workplace Statistics

The nature of industry injury related statistics, trends and occurrences require clarification and better distribution.

Heavy civil construction should be separated from general construction. Industry safety programs should be provided with more precise injury and offence trend related information. Access to information pertaining to a serious injury, workplace improvement or stop work orders should be provided to industry safety programs via electronic links.

All of the above allow for a better fine-tuning of program priorities to address problem areas.

- **Recommendation #9 – Provide improved and more detailed statistics on workplace injuries, accidents and orders including direct electronic communication to industry safety programs of workplace accidents.**

Return to Work

Return to work practices vary dependant upon circumstances faced by industries. The broad construction sectors face issues related to the seasonality of work that require different approaches to the environments of other areas of commerce.

The MHCA proposes that there be established a pilot project with the heavy construction industry for back to work initiatives. Its elements should include:

- A dedicated Return to Work Management Team;
 - Expedited access to diagnostic, treatment and rehabilitative services;
 - Timely return to work objectives.
- **Recommendation #10 – Establish a pilot project “Return to Work Management Team” concept for the heavy construction industry in recognition of the unique circumstances faced in industries affected by seasonality of work experience.**

Conclusion

The MHCA supports injury prevention programs and a fair and equitable compensation system for injured Manitoban workers. An unsafe workplace is socially and morally unacceptable, and those not in compliance with legislation and regulation should be dealt with appropriately under the law.

Let’s work together to make sure that a system exists and that efforts are in place which help ensure an injury prevention culture in all Manitoban workplaces.

We thank the committee for allowing us to present our concerns and recommendations.

Respectfully submitted,
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