Joanne Machado

From: The Workers Compensation Act [redacted]
Sent: Monday, 06 April, 2026 10:08 AM
To: Legislative Review
Subject: New message from "The Workers Compensation Act Legislative Review"

Name: Genaro Guevarra
Organization:
Email: [redacted]
Phone:
Message: Please see updated information on page 2 about the definition of "Accident."

The Workers Compensation Act Legislative Review 2025-2026, March 31, 2026
Dear Committee Members,
I appreciate the opportunity to provide comments to the Manitoba Workers Compensation Act Legislative Review. The current review of the definition of “accident” is especially important because it directly affects the treatment of psychological injury claims, including claims involving acute reactions, PTSD, and work-related mental health harm.
At present, psychological injury claims are adjudicated under the Act and WCB Policy 44.05.30, which explains how the definition of accident applies to psychological injuries in practice. Because these claims involve medical diagnosis, causation, functional impairment, and treatment considerations, it is important that healthcare professionals be meaningfully involved in the review process that will shape the future direction of the Act.
Anecdotal account from a nurse colleague indicated that Adjudicators for both- Workers Compensation Board and The Appeals Commission were all seasoned public servants who were legally-trained professionals but not were not healthcare professionals. And during the Appeals Review with the Appeals Commission, one of the Adjudicators asked the nurse colleague, who was claiming for psychological injury, what was meant by, “Subsyndromal post-traumatic Stress Disorder,” as the Adjudicator claimed that “he was not familiar with the term,” as the term was written on the colleague’s file. As healthcare professional myself, Adjudicators making healthcare decisions on psychological injuries and without healthcare designation, much more making healthcare decisions, is not only “unfair” but “absurd” that defies logic and common sense.
Submission position
I respectfully submit that healthcare professionals should be included in the legislative review process as subject-matter advisors or members, particularly for issues relating to psychological injury, occupational stress, PTSD, and injury causation. Their participation would strengthen the evidentiary foundation of any reforms and help ensure that the Act reflects current clinical understanding as well as legal fairness.
Reasons for healthcare involvement
The Appeals Commission is structured as a legal-adjudicative body with commissioners representing public, worker, and employer interests, and its panels hear appeals in a non-adversarial setting. That structure is important, but it does not replace the need for clinical expertise when the issue under review is whether a worker has suffered a compensable psychological injury or whether the statutory definition of accident should be refined.
Healthcare professionals can assist the review by providing insight into:
• how psychological injury presents in clinical practice.

• the relationship between workplace trauma and delayed symptom onset.
• the distinction between diagnosis, impairment, and causation.
• the practical meaning of “acute reaction” and PTSD in the compensation context;
• appropriate evidentiary standards for mental health claims.

The Committee should consider the participation of the appropriate involvement of Doctors Manitoba, Manitoba Nurses Union, Canadian Medical Association, Canadian Nurses Association and Health Canada during the legislative review, to enhance the definition of “Accident” to reflect the realities of healthcare claims, particularly psychological injury claims.

The current definition of “Accident” is vague and very limited in scope and do not capture a “holistic” essence of “health disruption” to make the event qualify as an accident, besides the obvious “physical injury.” Although, a physical injury can lead to “psychological injury” claims where it gets “muddied” as it takes an expert clinician to provide an expert assessment to make decision with the right training and experience in health matters versus, adjudicators, both with WCB and Appeals Commission making decisions for such health claims without the medical and healthcare training, particularly on mental health.

Ensuring healthcare workers are appropriately assessed and adjudicated for psychological injury claims and can return to work safely is key. Through the Freedom of Information Access, between 2012 to 2023, a total of 302 psychological injury claim was made by nurses with WCB. Only 163 were Accepted or 54% and 139 Disallowed or 46% which is a very significant number.

There is discussion among members who claimed that their psychological injury claims were not properly assessed and unable to return to work and others, completely left the profession, especially part of the Post-COVID-19 exodus who either retired early or completely change course with their careers.

Even after this legislative Review, if not considering the these changes, Manitoba will continue to “bleed” nurses to the private sector and continue to see major disruptions in the retention of these highly experienced and skilled workers vs. seeing the influx of new nurses entering the workforce and are disillusioned and leaves the profession early.

Qualifications that should be required

If healthcare professionals are formally included in the review, I recommend that they hold the ordinary credential and registration required for their profession in Canada or Manitoba. For example:
• Physicians: a medical degree and active registration/licensure to practice medicine;
• Nurses: the required nursing credential and registration with the applicable regulator;
• Psychologists: registration as a psychologist;
• Other regulated health professionals: the credential and regulatory standing required by their profession.

In addition to licensure, participants should have demonstrated experience in one or more of the following:
• occupational health;
• mental health or trauma assessment;
• disability or functional impairment assessment;
• workers’ compensation or insurance medicine;
• return-to-work or rehabilitation planning.

Recommended reform approach

I recommend that the Committee consider amendments or policy directions that:
1. Clarify the definition of “accident” as it applies to psychological injury claims;
2. Ensure PTSD, Subsyndromal PTSD and other mental health claims are assessed with appropriate clinical input;
3. Include healthcare professionals in consultation and review processes related to psychological injury;

4. Preserve procedural fairness while improving the quality of medical and factual decision-making.

Closing

The Manitoba workers compensation system should remain fair, evidence-based, and responsive to the realities of both physical and psychological injury. Meaningful healthcare-professional participation in the legislative review would help ensure that future amendments to the Act are clinically informed, balanced, and workable for injured workers, employers, and adjudicators alike.

Thank you for considering these comments.

Yours truly,

Genaro Guevarra
Email: [redacted]

Date: April 6, 2026
Time: 9:07 am

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