

Submission to the Legislative Review Committee

Review of The Workers Compensation Act

System Design, Security, and Psychological Injury in Workers Compensation

Submitted by: Anne Thompson Winnipeg, Manitoba
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This submission is provided in response to the Legislative Review Committee’s mandate to assess whether The Workers Compensation Act continues to operate as a fair, sustainable, and principled system for both workers and employers. It engages with the Committee’s questions at the level of system design, legislative structure, and institutional safeguards, rather than individual adjudicative outcomes.

The workers compensation system rests on a historic exchange: workers surrender their right to sue in return for reliable, predictable security in the event of injury. That exchange — articulated through the Meredith Principles — remains the foundation of the Act’s legitimacy. This submission examines whether the current legislative and policy framework continues to deliver the security promised under that compromise, particularly in contexts where discretion, instability, or procedural design may undermine trust and protection.

The analysis that follows is organized around three anchored sections. Together, they assess whether the Act continues to honour its foundational purpose in light of contemporary conditions, emerging forms of harm, and the lived operation of the compensation process.

Statement 1 — Fairness, Sustainability, and the Meredith Principles

The workers compensation system in Manitoba is founded on a historic exchange. Workers surrender their right to sue in return for reliable, predictable security in the event of injury, while employers receive immunity from civil liability in exchange for collective responsibility. This compromise, articulated through the Meredith Principles, remains the basis of the system’s legitimacy and sustainability.

That legitimacy depends not on the existence of coverage in law, but on the delivery of security in practice. A no-fault, collective liability system cannot be considered fair or sustainable when workers are required to relinquish their right to seek redress without receiving the dependable protection that justified that surrender. Where benefits are unstable, conditional, or subject to discretionary withdrawal, the exchange at the heart of workers compensation is eroded.

The Act continues to invoke the Meredith Principles, but the lived operation of the system increasingly departs from them. In practice, workers may experience benefit insecurity, coercive compliance pressures, credibility discounting, and loss of predictability in

circumstances where security was promised. These conditions undermine trust in the system and weaken the collective foundation on which employer immunity rests. Sustainability cannot be achieved through cost control or administrative efficiency alone; it depends on maintaining the integrity of the original bargain.

The need for a workers compensation system arose precisely because individual employers could not be relied upon to recognize or remedy workplace harm on their own. The Meredith compromise was designed to replace that uncertainty with a principled, collective framework grounded in law rather than discretion. When the system permits insecurity or coercion to function as tools of administration, it recreates the very imbalance the compromise was meant to resolve.

This is not a critique of individual decision-makers, nor an argument about isolated outcomes. It is a structural concern. A system that allows the erosion of security in exchange for the surrender of legal rights risks losing the confidence of both workers and employers. Fairness and sustainability are inseparable from predictability, and predictability depends on clear legislative safeguards rather than discretionary interpretation.

This submission proceeds from the premise that restoring the integrity of the Meredith exchange is essential to the long-term legitimacy of Manitoba's workers compensation system. The sections that follow examine whether the current legislative and policy framework continues to honour that exchange under contemporary conditions.

Statement 3 — Emerging Forms of Work and System Readiness

The workers compensation system has historically struggled to respond to forms of work that fall outside traditional wage-based employment, and this lack of readiness has already produced harm. While current discussions focus on emerging issues such as platform work, remote labour, technological change, and an aging workforce, the underlying challenge is not new. The system has previously encountered work that did not fit its assumptions, and the consequences of that mismatch are instructive.

Workers compensation frameworks were developed around stable employment relationships, predictable earnings, and linear return-to-work pathways. When work departs from those assumptions — whether because it is unpaid, community-based, episodic, or socially necessary but economically undervalued — the system's tools and policies may fail to respond adequately. Adjudication, rehabilitation, and benefit design

can become misaligned with the realities of the work being performed, leaving injured workers without meaningful pathways to recovery or security.

These readiness gaps are not limited to new technologies or future labour models. They have already manifested in cases involving non-standard work, cumulative injury, and long-term disability that does not conform to wage-replacement logic. In such contexts, rigid expectations around mobility, retraining, and capacity can generate secondary harm, particularly where workers are older, community-anchored, or unable to relocate without significant personal cost.

The rise in psychological injury claims further underscores this lack of readiness. Psychological harm does not arise solely from discrete workplace incidents; it can emerge from prolonged exposure to uncertainty, instability, and administrative pressure within the compensation process itself. When the system is unprepared to recognize or mitigate these dynamics, psychological injury becomes both a symptom and a consequence of institutional unreadiness.

The Committee's focus on emerging issues presents an opportunity to learn from these earlier encounters. The question is not whether new forms of work will challenge the system — they already have. The question is whether the legislative and policy framework will adapt its assumptions before similar harms recur on a broader scale. Without deliberate attention to system readiness, the same structural limitations will continue to produce predictable and preventable injury.

Statement 4 – Psychological Injury Coverage

Coverage in law versus coverage in practice

Psychological injury is formally recognized under The Workers Compensation Act. However, recognition in law does not necessarily translate into protection in practice. In adjudication, access to support may remain conditional, unstable, and vulnerable to discretionary interpretation. Restrictive definitions, narrow causation models, credibility-based gatekeeping, and procedural barriers can undermine meaningful access to benefits. As a result, psychological harm may go unrecognized or unaddressed even where it arises directly from the compensation process itself. This raises the question of whether legislative amendments have functionally improved protection for workers, or whether they have merely acknowledged psychological injury without ensuring reliable, humane coverage.

Psychological Harm Caused by the Compensation Process

Psychological injury may arise not only from a workplace incident, but also from the administration of the compensation process itself. Prolonged uncertainty, fear-based compliance, and the use of procedural leverage tied to benefits can generate significant psychological harm. Where access to essential supports is unstable or contingent, workers may experience distress, anxiety, and loss of trust as a direct result of adjudication practices. Although the Act recognizes psychological injury, it does not adequately address harm caused by the system's own processes, creating a gap in protection for workers whose psychological well-being is affected by the manner in which claims are managed.

Credibility, Discretion, and Evidentiary Imbalance

Psychological injury claims are particularly vulnerable to subjective assessments of credibility and unstructured discretionary decision-making. Behaviour, affect, and compliance are often interpreted as indicators of truthfulness or capacity, allowing credibility judgments to override medical or functional evidence. Where evidentiary standards are not clearly defined, discretionary interpretation can destabilize entitlement and undermine access to support. The legislative framework permits psychological injury claims to be filtered through credibility-based gatekeeping rather than through consistent, transparent safeguards, creating an imbalance that disproportionately affects workers experiencing psychological harm.

Causation Standards for Psychological Injury

Current causation standards for psychological injury do not consistently reflect the cumulative and relational nature of psychological harm. The legislative framework tends to privilege discrete, identifiable events, making it difficult to recognize injury that develops over time or arises from prolonged exposure to stressors within the compensation process itself. Where psychological harm is required to be linked to a single incident, ongoing or process-induced injury may be rendered invisible. This narrow approach risks excluding legitimate psychological injury that reflects contemporary understanding of how harm is experienced and sustained.

Security and Dignity as Components of Coverage

Psychological injury coverage cannot be separated from the security and predictability of the compensation system itself. Where access to benefits is unstable, contingent, or subject to discretionary withdrawal, psychological safety is undermined regardless of formal recognition. Dignity of process — including consistency, transparency, and respect

for the worker's circumstances — is an essential component of meaningful coverage. A framework that permits insecurity, coercion, or prolonged uncertainty risks causing psychological harm even as it purports to address it. Psychological injury coverage must therefore be understood not only in diagnostic terms, but in relation to how injured workers are treated throughout adjudication.

Psychological injury coverage must therefore be understood not only in diagnostic terms, but in relation to the stability, predictability, and dignity of the compensation process itself.

Conclusion

This submission has examined the workers compensation system through three connected lenses: the integrity of the Meredith exchange, the system's readiness to respond to work that no longer fits its assumptions, and the adequacy of protection once psychological injury is recognized in law. Considered together, these analyses point to a common concern: the erosion of security in a system whose legitimacy depends upon it.

Statement 1 identified a breach in the historic compromise at the heart of workers compensation. When workers are required to surrender their right to sue without receiving reliable, predictable protection in return, the exchange that justifies employer immunity is weakened. Fairness and sustainability cannot be sustained where insecurity, coercion, or discretionary instability are permitted to substitute for legal safeguards.

Statement 3 demonstrated that this breach is not confined to isolated cases or emerging technologies. The system has already encountered forms of work that fall outside traditional wage-based assumptions, and the resulting harms reveal a lack of institutional readiness. Without adaptation, the same structural limitations will continue to produce foreseeable injury as work evolves.

Statement 4 examined whether recognition of psychological injury has translated into meaningful protection. It found that coverage remains vulnerable to narrow causation models, credibility-based gatekeeping, and administrative practices that can themselves generate psychological harm. Where access to support is conditional or unstable, recognition in law does not amount to protection in practice.

Taken together, these findings indicate that the challenges under review are not discrete or incidental. They are structurally connected. Psychological injury, system unreadiness, and

benefit insecurity intersect in ways that undermine trust, dignity, and the foundational exchange on which the system rests.

The task before the Committee is not merely to modernize language or respond to emerging trends, but to ensure that the workers compensation system continues to deliver the security that justified its creation. Legitimacy depends on predictability. Predictability depends on law. And law must be capable of protecting workers not only from workplace injury, but from harm arising within the compensation process itself.