

Decision of the Governors

Number: 9
Date: January 7, 1992
Subject: Review and Development of Occupational Safety and Health Regulations – Strategy Document

The governors adopted the following document at their meeting on January 7, 1992.

1. Purpose

The Board of Governors of the Workers' Compensation Board are statutorily responsible for making occupational safety and health and first aid regulations and are relied upon for recommendations to the lieutenant-governor-in-council with respect to regulations under the *Workplace Act*.

The Board of Governors is responsible for making the final decisions with respect to the content of any regulations or recommendations.

There has not been a public review of occupational safety and health regulations that has been brought to a conclusion for over a decade.

The governors propose to successfully complete a review through a process that is respectful of the interests of workers, employers, the community, and the W.C.B. They propose to complete the review within a reasonable time while allowing for broad community consultation. They intend to adopt a process that recognizes the experience and expertise of the parties most directly affected.

The purpose of the process is to conduct an open, comprehensive review and revision of occupational safety and health related regulations, which the Workers' Compensation Board currently administers, and to develop new regulations in certain areas and industries currently unregulated.

2. Scope of Review

The existing regulations that are the subject of this review consist of the *Industrial Health and Safety Regulations*, *Occupational Environment Regulations*, *Industrial First Aid Regulations* and *Workplace Hazardous Materials Information System Regulations*.

The industries subject to review for the potential development of new regulations include farm and ranch, aquaculture, fishing and silviculture.

3. Some Criteria For Effective Regulations

Criteria for development of effective regulations shall include:

- (1) Regulations that are achieved through a process that respects consensus and involves and relies upon the parties with the most direct interest in the outcomes
- (2) Regulations achieved through a process that provides for the greatest possible public participation and confidence in the outcomes
- (3) Regulations that clearly address hazards in the workplace to protect the health and safety of workers
- (4) Regulations that define responsibilities and accountability
- (5) Regulations that clearly state the criteria for compliance
- (6) Regulations that are in plain language, technically competent and easily understood
- (7) Regulations that provide a mechanism for ongoing review and update in areas subject to changing knowledge and technology
- (8) Regulations that do not restrict workplace activity and conditions beyond that necessary to address the workplace hazard
- (9) Regulations that address the diverse character of workplaces in the province
- (10) Regulations that are compatible with and do not overlap related regulations from other authorities

4. Structure

The Board of Governors constitute a Committee for Regulation Review consisting of two employer, two worker, and one public interest governor and the chairman.

The Committee is delegated the responsibility to oversee the regulation review and development process; to bring it, as far as possible, to a successful conclusion by presenting to the Board of Governors recommendations based on consensus; to record and define differences; and to present a clear definition of the options where consensus has not been achieved.

All recommendations and reports related to the process will be presented to the Board of Governors prior to their publication.

The Board of Governors shall appoint a Regulation Advisory Committee to be chaired by the chairman or another governor that he designates during his temporary absence. It shall include the two worker, two employer and one public interest governor who are members of the Governors' Committee for Regulation Review plus seven persons representative of workers and seven persons representative of employers. It shall also include the coordinator of regulation review as an advisor to the Regulation Advisory Committee.

The fourteen persons representative of workers and employers are to be selected by the Board of Governors on the advice of the Governors' Committee for Regulation Review following consultation with labour and employer groups.

Employees of the Workers' Compensation Board and professionals in related fields may be appointed by the Board of Governors as advisory members of the Regulation Advisory Committee.

Specialty Subcommittees of the Regulation Advisory Committee may be appointed to address specific areas. Their composition, chairmanship and responsibilities shall be decided by the Governors' Committee for Regulation Review after consultation with the Regulation Advisory Committee.

The Regulation Advisory Committee will ensure that the Occupational Health and Safety Division of the Board is consulted on matters related to the content, structure, implementation, monitoring, and enforcement of regulations and standards.

Non-governor members of the Regulation Advisory Committee and Specialty Subcommittees shall receive reimbursement for travel and other reasonable expenses, and a per diem or other compensation determined by the governors.

It may be appropriate to proceed to public hearings on proposed additions or amendments to the regulations before the comprehensive review is complete.

The Regulation Advisory Committee will recommend a process for regulation amendment during the period of this review process.

5. Roles and Functions

(1) **Governors' Committee for Regulation Review**

- Conduct public forums to assist in identification of issues
- Establish and fill position of coordinator of regulation review
- Participate on Regulation Advisory Committee
- Appoint members of Specialty Subcommittees
- Approve general budgetary and Secretariat allocations
- Receive, review and as necessary amend the final report from the Regulation Advisory Committee
- Oversee the public hearing and gazetting process
- Evaluate the effectiveness of regulation implementation

(2) **Regulation Advisory Committee**

- Implement terms of reference for regulation review adopted by the governors
- Make recommendations to the governors on the general structure of regulations
- Review core area regulations; for example, on topics of: application of regulations, joint occupational safety and health committees, occupational safety and health programs, accident/incident investigations and general requirements in places of employment
- Direct Specialty Subcommittees as necessary
- Review and integrate reports from Specialty Subcommittees
- Members of the Regulation Advisory Committee may participate in Specialty Subcommittees and otherwise act as ex-officio members on Specialty Subcommittees where appropriate

(3) **Specialty Subcommittees**

- Implement terms of reference on specialized areas
- Liaise with other Specialty Subcommittees

(4) **Coordinator of Regulation Review**

- Responsible to the chairman and Governors' Committee for Regulation Review for overall implementation and completion of regulatory review process
- Appoint and direct research assistant and Secretariat

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- Provide liaison with all departments of W.C.B. which will be involved in regulation review process
 - Participate on Regulation Advisory Committee and Specialty Subcommittees as directed by the Governors' Committee for Regulation Review
 - Participate in drafting of final report of Advisory Committee
 - Liaise with Ministry of Labour during gazetting process

(5) Research Assistant

- Assist coordinator with technical and other advice on operation of Advisory and Specialty Committees
- Fulfill research function for regulation review process
- Assist coordinator with operation of the Secretariat
- Assist coordinator in other aspects as necessary

(6) Secretariat

- Provide legal advice on matters related to regulation to the governors, the Regulation Advisory Committee and Specialty Committees
- Provide budgetary services, administrative and secretarial support
- Develop resource information centre for regulation review process (for example: previous draft regulations, previous public comment, standards, claims statistics, regulations from other jurisdictions)

(7) OSH Division

- Provide information, consultation, advice and comments as requested by the Regulation Advisory Committee or Specialty Subcommittees through the coordinator
- Prepare manuals and explanatory literature on new regulations
- Provide education and training programs both for staff and the community to assist with implementation of new regulations

6. Public Forum

The Governors' Committee for Regulation Review shall conduct a series of public forums with interested parties.

The purpose is to provide a means for interested parties to express their views on regulation review early in the review process and to receive views on a range of strategies for the creation of a safer workplace, including non-inspectional strategies such as internal responsibility and information systems; consulting and educational services; assessment incentives; and enforcement.

7. Targeted Time Frame For Completion

The entire project from inception to gazetting of final regulations will take approximately two years to complete and consist of eight stages:

- (1) Project start-up
 - Board of Governors' decision on broad parameters of regulation review
 - Selection of coordinator and creation of Secretariat
 - Appointment of Regulation Advisory Committee
 - Organization of public forums
 - First meeting of Regulation Advisory Committee
- (2) Regulation Advisory Committee
 - Meetings to determine method of operation, general structure and style of regulations
 - Preliminary work on core area regulations
 - Creation of Specialty Subcommittees
- (3) Regulation Review – Preliminary Draft
 - Completion of review of core area regulations
 - Creation of further Specialty Subcommittees as necessary
 - Submission of Specialty Subcommittee reports to Regulation Advisory Committee
 - Preliminary draft of proposed regulations produced for consideration by Board of Governors
- (4) Finalization of Draft Regulations for Public Hearing
 - Final review of draft proposals
- (5) Public Hearings
- (6) Finalization of Regulations Based on Outcome of Public Hearings
- (7) Gazetting of Regulations
- (8) Printing and Distribution of Regulations

DATED at Richmond, British Columbia, January 10, 1992.

Decision of the Governors

Number: 10
Date: February 3, 1992
Subject: Occupational Safety and Health Regulation Review:
Appointment of Regulation Advisory Committee Members and
Setting of Per Diem Allowance

WHEREAS the governors of the Workers' Compensation Board have embarked upon a complete review of the *Industrial Health and Safety Regulations*, the *Occupational Environment Regulations*, the *Industrial First Aid Regulations* and the *Workplace Hazardous Materials Information System Regulations*;

AND WHEREAS the governors have adopted a process by which this review will be conducted;

AND WHEREAS this process includes the appointment of a Regulation Advisory Committee which will, under the direction of the governors, oversee the review of the Regulations;

AND WHEREAS the Regulation Advisory Committee is to consist of the chairman of the governors and two worker, two employer and one public interest governors, seven persons representative of workers and seven persons representative of employers, and the coordinator, regulation review, as an advisor to the Committee;

AND WHEREAS the governors have considered which persons should be appointed to the Regulation Advisory Committee to be representative of workers and representative of employers and what suitable per diem allowance should be paid to those persons:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. The following persons are appointed to the Regulation Advisory Committee to be representative of workers:

Ms. Karen Dean, Staff Representative, Hospital Employees' Union
Mr. Bill Kessel, Financial Secretary & Business Representative,
Floorlayers Union, Local 1541

Mr. Bob Patterson, Safety Director, I.W.A. – Canada, Local 1-71
Mr. Larry Stoffman, Director, Occupational Health and Safety, United
Food and Commercial Workers' Union of B.C., Local 1518
Mr. Ed Vossenaar, Staff Representative, Occupational Safety and
Health, B.C. Government Employees Union
Ms. Cathy Walker, National Representative, C.A.W.
Mr. John Weir, Director of Occupational Health & Safety, B.C.
Federation of Labour

2. The following persons are appointed to the Regulation Advisory Committee to be representative of employers:

Mr. M.W. Arbogast, Vice-President, Operations, Health Labour
Relations Association
Mr. David Bell, Occupational Hygiene Officer, Occupational Health &
Safety Department, University of British Columbia
Mr. Lance Ewing, Health & Safety Coordinator, Overwaitea Food Group
Mr. B.A. Hawrysh, Vice-President, Occupational Health & Safety,
Council of Forest Industries of B.C.
Mr. Jim Halliday, Manager, Labour Relations, Metal Industries Association
Mr. W.C. Sinclair, Director, Engineering, District of Burnaby
Mr. Dale Versfelt, Safety Director, Construction Labour Relations
Association

3. Each person so appointed shall be paid travel and other reasonable expenses and a per diem allowance of ONE HUNDRED SEVENTY FIVE DOLLARS (\$175.00) for attendance at Regulation Advisory Committee meetings.

Decision of the Governors

Number: 11

Date: February 3, 1992

Subject: Development of Occupational Safety and Health Regulations for the Farming Industry

WHEREAS on September 15, 1982, the Workers' Compensation Board determined that employers and workers in or about the industry of farming should be brought within the scope of Part 1 of the *Workers Compensation Act* effective April 4, 1983, and adopted B.C. Regulation 434/82, deposited September 21, 1982;

AND WHEREAS B.C. Regulation 434/82 defines farming to include growing or raising crops, dairying, poultry raising, egg production, raising of livestock for human consumption, breeding of beef cattle for herd improvement, horticulture, bee keeping, aquaculture, fur farming, and breeding of horses, on land with a certain minimum gross value of production and of a certain size;

AND WHEREAS on March 28, 1984, the Workers' Compensation Board amended B.C. Regulation 434/82 by B.C. Regulation 275/84, deposited August 28, 1984 and declared that:

... with the exception of the *Industrial Health and Safety Regulations*, all provisions of Part 1 of the *Workers Compensation Act* and all the Board's current practices, procedures and regulations, including those in respect of registration requirements, assessment collection and claims and rehabilitation matters will apply to employers and workers in or about the industry of farming in the same way and to the same extent that they presently apply to workers and employers in or about the other industries within the scope of Part 1 of the *Workers Compensation Act*, provided however, that the *Industrial Health and Safety Regulations* will be used as guidelines for educational and promotional programs relating to industrial health and safety in the farming industry.

The Board hereby declares that regulations relating to industrial health and safety in the farming industry will be developed with implementation and adjustment periods appropriate to that industry, and

The Board hereby declares that it will continue to administer educational and promotional programs relating to industrial health and safety in the farming industry while said regulations are being developed.;

AND WHEREAS the governors of the Workers' Compensation Board have embarked upon a process by which, with the involvement of the worker and employer communities in the province, new occupational safety and health regulations will be developed for all industries covered by Part 1 of the *Workers Compensation Act* (the "O.S.&H. Regulation Review Process");

AND WHEREAS the governors of the Workers' Compensation Board consider it appropriate that the Workers' Compensation Board develop occupational safety and health regulations to apply to employers and workers in or about the industry of farming as that industry may be defined at the time the regulations are developed;

NOW THEREFORE THE GOVERNORS RESOLVE THAT, as part of the O.S.&H. Regulation Review Process, occupational safety and health regulations will be developed by the Workers' Compensation Board to apply to employers and workers in or about the industry of farming as that industry may be defined at the time the regulations are developed.

Decision of the Governors

Number: 12

Date: February 3, 1992

Subject: Amendment to the *Fishing Industry Regulations*

WHEREAS the lieutenant-governor-in-council has made the *Fishing Industry Regulations* (B.C. Regulation 674/76) under Section 4 of the *Workers Compensation Act*;

AND WHEREAS Regulation 15 of the *Fishing Industry Regulations* authorizes the Workers' Compensation Board to add to or amend the Regulations;

AND WHEREAS the governors of the Workers' Compensation Board consider it appropriate to amend Regulation 11 of the *Fishing Industry Regulations* which refers to a "commissioner" of the Workers' Compensation Board, an office which was abolished effective June 3, 1991:

NOW THEREFORE THE GOVERNORS RESOLVE THAT, pursuant to Regulation 15 of the *Fishing Industry Regulations*, Regulation 11 of the Regulations is amended by deleting the words "commissioner or."



Decision of the Governors

Number: 13
Date: February 3, 1992
Subject: Adjustments to Payments Under Section 25 of the *Workers Compensation Act*

WHEREAS Section 25 of the *Workers Compensation Act* requires that the Workers' Compensation Board, as of January 1st and July 1st in each year, adjust the periodical payments of compensation being made under the *Act* (in respect of an injury, death or disablement from industrial disease sustained more than six months prior to the date of adjustment) by a ratio determined according to a statutory formula;

AND WHEREAS Section 25 requires that, as of those dates, most dollar amounts mentioned in the *Act* be adjusted by the same ratio;

AND WHEREAS prior to June 3, 1991, final approval of the ratio determined under Section 25 and the adjusted dollar amounts was given by the commissioners of the Workers' Compensation Board;

AND WHEREAS the governors of the Workers' Compensation Board have concluded that, on and after June 3, 1991, it would be most appropriate for final approval of the ratio and dollar amounts to be given by the president and chief executive officer of the Workers' Compensation Board and for this function to be included in the definition of his functions under Section 82(a)(i) of the *Act*:

NOW THEREFORE THE GOVERNORS RESOLVE THAT, on and after June 3, 1991, the authority for the final approval of the ratio determined under Section 25(1) for the *Workers Compensation Act* and of the adjusted dollar amounts determined under Section 25(4) and (5) of the *Act* shall be exercised by the president and chief executive officer of the Workers' Compensation Board and shall be included in the definition of his functions under Section 82(a)(i) of the *Act*;

AND THE GOVERNORS FURTHER RESOLVE THAT the president and chief executive officer shall be instructed to have the amendments to the *Rehabilitation Services and Claims Manual* required as a result of this resolution prepared and forwarded for the approval of the governors at their next regular meeting.



REPORTER

Decision of the Governors

Number: 14
Date: February 3, 1992
Subject: Determination of the Maximum Wage Rate Under Section 33 of the *Workers Compensation Act*

WHEREAS Section 33 of the *Workers Compensation Act* requires that the Workers' Compensation Board determine the maximum wage rate for each calendar year according to a statutory formula;

AND WHEREAS prior to June 3, 1991, final approval of the maximum wage rate determined under Section 33 was given by the commissioners of the Workers' Compensation Board;

AND WHEREAS the governors of the Workers' Compensation Board have concluded that, on and after June 3, 1991, it would be most appropriate for final approval of the maximum wage rate determined under Section 33 to be given by the president and chief executive officer of the Workers' Compensation Board and for this function to be included in the definition of his functions under Section 82(a)(i) of the *Act*;

NOW THEREFORE THE GOVERNORS RESOLVE THAT, on and after June 3, 1991, the authority for the final approval of the maximum wage rate determined under Section 33 of the *Workers Compensation Act* shall be exercised by the president and chief executive officer of the Workers' Compensation Board and shall be included in the definition of his functions under Section 82(a)(i) of the *Act*;

AND THE GOVERNORS FURTHER RESOLVE THAT the president and chief executive officer shall be instructed to have the amendments to the *Rehabilitation Services and Claims Manual* required as a result of this resolution prepared and forwarded for the approval of the governors at their next regular meeting.



Decision of the Governors

Number: 15
Date: February 3, 1992
Subject: Adjustments to Medical Review Panel Fees

WHEREAS Sections 58–66 of the *Workers Compensation Act* provide for an appeal to a medical review panel from a medical decision of the Workers' Compensation Board or a medical finding of the Workers' Compensation Review Board;

AND WHEREAS the medical review panel appeal generally consists of a physical examination of the worker by a panel composed of a chairman who is a general practitioner and two specialists in the particular class of injury or ailment in respect of which the worker has claimed compensation;

AND WHEREAS the Workers' Compensation Board pays fees to medical review panel chairmen and to the specialists for their own time, as well as a steno fee to each chairman for time spent by his or her staff typing the medical review panel certificate and accompanying narrative;

AND WHEREAS Order-in-Council 875 dated April 26, 1986, requires that fees for medical review panel chairmen be adjusted semi-annually on the same basis as adjustments under Section 25 of the *Workers Compensation Act* and the Workers' Compensation Board has generally also adjusted the fees for the specialists and the steno fees at the same time and in the same manner;

AND WHEREAS prior to June 3, 1991, final approval of medical review panel fees was given by the commissioners of the Workers' Compensation Board;

AND WHEREAS the governors of the Workers' Compensation Board have concluded that from June 3, 1991, until the medical review panel registrar has completed his review of the medical review panel system and his recommendations have been considered, it would be most appropriate for the authority for the final approval of medical review panel fees to be exercised by the chairman of the governors:

NOW THEREFORE THE GOVERNORS RESOLVE THAT from June 3, 1991, until the medical review panel registrar has completed his review of the medical review panel system and his recommendations have been considered, the authority for the final approval of medical review panel fees shall be exercised by the chairman of the governors, subject to fee schedules being presented to the governors for ratification at the next regular governors' meeting after being adjusted.

Decision of the Governors

Number: 16
Date: February 3, 1992
Subject: Disclosure of Employer Classification – Subclasses 203, 204, 411 and 430

WHEREAS the current policy of the Workers' Compensation Board is not to disclose an employer's classification for assessment purposes to other employers;

AND WHEREAS, in response to discontent in some parts of the employer community over this policy, the Assessment Department is developing a policy proposal which will address this problem;

AND WHEREAS the governors of the Workers' Compensation Board are considering how to resolve the issue of the surplus in the Silicosis Fund;

AND WHEREAS resolution of the issue of the surplus in the Silicosis Fund requires disclosure of the names of the employers in Silicosis Fund subclasses 203 and 204 and in Accident Fund subclasses 411 and 430 and cannot await completion of the work being done by the Assessment Department on its disclosure policy:

NOW THEREFORE THE GOVERNORS RESOLVE THAT the names of the employers in Silicosis Fund subclasses 203 and 204 and in Accident Fund subclasses 411 and 430 may be disclosed in connection with public consultation about the manner in which the Silicosis Fund surplus issue should be resolved.



Decision of the Governors

Number: 17
Date: March 2, 1992
Subject: Ratification of Medical Review Panel Fee Schedule Effective January 1, 1992

WHEREAS, at the governors' meeting on February 3, 1992, the governors of the Workers' Compensation Board resolved that:

... from June 3, 1991 until the medical review panel registrar has completed his review of the medical review panel system and his recommendations have been considered, the authority for the final approval of medical review panel fees shall be exercised by the chairman of the governors, subject to fee schedules being presented to the governors for ratification at the next regular governors' meeting after being adjusted;

AND WHEREAS the chairman of the governors has given final approval to the fee schedule for medical review panels held on and after January 1, 1992, and has requested ratification by the governors of the fee schedule:

NOW THEREFORE THE GOVERNORS RESOLVE THAT they ratify the following fee schedule approved by the chairman of the governors for medical review panels held on or after January 1, 1992:

The hourly rate payable to chairmen of medical review panels is \$133.40.

The flat fee payable to Panel members other than the chairmen is \$444.99, with an additional fee of \$97.86 per hour when the time taken on an appeal (including travelling time) exceeds 3½ hours up to a maximum of a further 4½ hours.

The steno fee for each appeal is \$66.80.

Decision of the Governors

Number: 18
Date: April 6, 1992
Subject: **Governors' Financial Standing Committee Charter
Workers' Compensation Board of British Columbia**

This Charter states the mission, authority, structure and responsibility of the "Governors' Financial Standing Committee" of the governors of the Workers' Compensation Board of British Columbia.

Mission Statement

The mission of the Governors' Financial Standing Committee is to assist the governors in fulfilling their oversight responsibilities relating to the insurance, investments, executive compensation, financial reporting, auditing and internal control of the Workers' Compensation Board, while recognizing that the primary responsibility for financial reporting, internal control and compliance with laws, regulations, and ethics by the Workers' Compensation Board rests with executive management, overseen by the governors.

Authority

The Committee shall have unrestricted access to all personnel and documents of the Workers' Compensation Board which are necessary to carry out the Committee's duties and responsibilities.

Structure

1. The governors shall appoint one worker representative, one employer representative and one public interest representative governor to serve as a Governors' Finance Standing Committee. The Committee shall be chaired by the public interest governor.
2. The chairman of the governors shall be an *ex officio* member of the Committee and shall act as chair of the Committee in the absence of the public interest governor.

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3. A quorum of the Governors' Finance Standing Committee shall consist of the worker representative and the employer representative governors appointed under paragraph 1 and either the public interest governor appointed under paragraph 1 or the chairman of the governors, and no business shall be conducted by the Committee unless a quorum is present.
 4. The terms of the members of the Committee shall be established on a staggered basis to maintain continuity while bringing fresh perspectives to the work of the Committee.
 5. The Committee shall meet at least biannually, or more frequently as required by the business of the Committee. The internal and external auditors shall be notified of meetings and may attend and be heard when the Committee is dealing with matters concerning their areas of interest.
 6. The Committee may require the presence at meetings of any operating personnel considered necessary by the Committee.
 7. Minutes shall be kept of all meetings of the Committee and, after being signed and initialled by the chair of the Committee, shall be forwarded to the Office of the Governors for retention.

Responsibilities

1. The Committee shall keep the governors informed of its activities on a current basis by forwarding minutes of all meetings to each governor, and as otherwise required by the governors. The chair of the Committee shall report orally to the governors at each regular governors' meeting about any business undertaken by the Committee since the previous regular governors' meeting.
2. The chair of the Committee shall make an annual report of accomplishments and work in progress to the governors for each calendar year. Included in that report shall be a review of this Charter and recommendations for any changes perceived necessary.
3. The Committee shall review and, as appropriate, make recommendations to the governors with respect to
 - a. The policies and activities of the W.C.B.'s investment committee
 - b. All significant issues concerning litigation, contingencies, claims and assessments, and all material accounting issues, that require disclosure in the W.C.B.'s financial statements

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- c. The consulting actuary's reports on the assessment rates and the year-end actuarial liabilities and make any necessary recommendations to the governors
 - d. Major budgetary variances throughout the year
 - e. Executive remuneration and benefits
 - f. The Management's Discussion and Analysis section of the W.C.B.'s annual report
 - g. The W.C.B.'s program of insurance and

shall undertake any other responsibilities which it may be directed to undertake by resolution of the governors of the Workers' Compensation Board.

- 4. The Committee shall oversee the internal audit and evaluation function, including
 - a. Review and approve the internal audit and evaluation charter
 - b. Review the reporting relationship of internal audit and evaluation
 - c. Review the annual internal audit and evaluation plan, its objectives, and the resources required to attain those objectives
 - d. Review the results of the internal audit and evaluation effort of the preceding period
 - e. Ensure coordination between the internal and external auditors and
 - f. Approve the appointment or removal of the internal auditor

The internal auditor shall report to the president and chief executive officer on a regular basis with the Committee providing oversight responsibility for the internal audit and evaluation function.

- 5. The Committee shall review with the external auditor the proposed scope of the annual examination to determine that management has not imposed any restrictions and that problem areas will receive appropriate attention. The Committee shall discuss with the external auditor the impact of recent releases of the Canadian Institute of Chartered Accountants and the British Columbia Institute of Chartered Accountants and significant changes made in accounting principles and practices.
- 6. The Committee shall discuss with the external auditor the results of its audit from the preceding year, including a review of
 - a. The annual report containing the audited financial statements
 - b. The auditor's management letter(s) and recommendations

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- c. The adequacy of the organization's control structure
 - d. The cooperation received from management on information and explanations requested and
 - e. The adequacy of the organization's accounting principles and policies and management's estimates and judgments
7. The internal and external auditors (separately) shall be provided the opportunity to meet with the Committee, at least annually, and without management present, to discuss any matter.
 8. The Committee shall review the extent to which major recommendations made by the internal and external auditors have been implemented.
 9. The Committee shall monitor compliance with the applicable laws and regulations and the Workers' Compensation Board published standards of ethical conduct, including compliance by senior management, and shall be provided with the resources necessary to carry out its duties and responsibilities. These responsibilities include the initiation of investigations into fraud, illegal acts and conflicts of interest by W.C.B. personnel.
 10. In carrying out its mission and performing its responsibilities, the Committee shall, at all times, be subject to the *Workers Compensation Act*, and the bylaws and resolutions of the governors of the Workers' Compensation Board.

This Charter of the Governors' Financial Standing Committee of the governors of the Workers' Compensation Board has been adopted by the governors of the Workers' Compensation Board on April 6th, 1992.

Editors' note: The following governors are appointed as members of the Governors' Financial Standing Committee from April 6, 1992, until the expiration of their term of appointment as a governor:

Worker Representative Governor – Peter Cameron

Employer Representative Governor – John St. C. Ross

Public Interest Governor – Mark Thompson

Chairman of the Governors – James E. Dorsey

Decision of the Governors

Number: 19
Date: April 6, 1992
Subject: Industrial Diseases Standing Committee Charter
Workers' Compensation Board of British Columbia

This Charter states the mission, role, structure and responsibilities of the "Industrial Diseases Standing Committee" of the governors of the Workers' Compensation Board of British Columbia.

Mission Statement

As a standing committee of the governors, the mission of the Industrial Diseases Standing Committee is to review the industrial diseases policies of the Workers' Compensation Board and to make recommendations for change to the governors.

Role

The primary roles of the Committee are to determine whether a probable relationship exists between a disease and an industry or industrial process in British Columbia and, if so, the circumstances in which claims for compensation for that disease would be presumed valid under Section 6(4) and Schedule B of the *Workers Compensation Act*, and to determine which diseases are to be designated or recognized as industrial diseases by regulation of general application.

It is not a responsibility of the Industrial Diseases Standing Committee to make determinations with respect to individual claims. Such determinations shall remain an administrative function in accordance with Section 25.24 of the *Rehabilitation Services and Claims Manual*.

Structure

1. The governors shall appoint two worker representative governors, two employer representative governors, one public interest representative governor, and the chairman of the governors to serve as the Industrial Diseases Standing Committee. The Committee shall be chaired by the chairman of the governors.

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2. The terms of the members of the Committee shall be established on a staggered basis to maintain continuity while bringing fresh perspectives to the work of the Committee.
 3. A quorum of the Industrial Diseases Standing Committee shall consist of one worker representative governor and one employer representative governor appointed under paragraph 1 and either the public interest governor appointed under paragraph 1 or the chairman of the governors, and no business shall be conducted by the Committee unless a quorum is present.
 4. The Committee shall meet at least six (6) times in each calendar year, but in no case shall more than three (3) months elapse between meetings.
 5. The Committee may require the assistance at Committee meetings or otherwise of any W.C.B. personnel considered necessary by the Committee. Subject to obtaining the necessary approvals for funding under paragraph 3 under RESPONSIBILITIES, the Committee may consult with stakeholders in the community, experts in the field of industrial diseases and any other persons whom the Committee considers would assist it in carrying out the Committee's responsibilities.
 6. Minutes shall be kept of all meetings of the Committee and, after being signed and initialled by the chair of the Committee, shall be retained by the Office of the Governors.
 7. The Committee may, with the approval of the governors, establish a secretariat or like administrative body of W.C.B. personnel to assist the Committee in fulfilling its responsibilities.

Responsibilities

1. The Committee shall, with the governors
 - a. Develop an operating procedure setting out the manner in which the Committee shall conduct its business, publish that operating procedure in the *Workers' Compensation Reporter* (the *Reporter*) and ensure that the operating procedure is otherwise available, upon request, to members of the public
 - b. Within two years of being constituted
 - (i) Completely review all entries currently within Schedule B and make recommendations to the Governors for updating Schedule B

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- (ii) Completely review the list of diseases designated or recognized by the W.C.B. as industrial diseases by regulation of general application and make recommendations to the governors for updating the list
 - c. Prioritize the other outstanding policy issues existing at the time the Committee is constituted and consider and make recommendations to the governors with respect to those issues
 - d. Consider new policy issues which may be brought to the Committee's attention by members of the Committee, the governors, W.C.B. personnel or stakeholders in the workers' compensation system and make recommendations to the governors
 - e. Conduct periodic reviews of Schedule B to ensure that the Schedule remains consistent with the intent of the *Act* and advances in medical knowledge, industries and industrial processes and make recommendations to the governors
 - f. Conduct periodic reviews of the list of diseases designated or recognized by the W.C.B. as industrial diseases by regulation of general application to ensure that the list remains consistent with the intent of the *Act* and advances in medical knowledge, industries and industrial processes and make recommendations to the governors
 - g. Undertake any other responsibilities which the Committee may be directed to undertake by resolution of the governors of the Workers' Compensation Board
 2. The Committee shall keep the governors informed of its activities on a current basis by forwarding minutes of all meetings to each governor and as otherwise required by the governors.
 3. To fulfill its mandate, the Committee may seek the approval of the governors for the funding of research projects, the constitution of expert panels, the holding of public inquiries, or the use of any other mechanism which the Committee considers would assist in obtaining information to assess the relationship between a particular industry or industrial process and a particular disease.
 4. The chair of the Committee shall make an annual report of accomplishments and works in progress to the governors for each calendar year. Included in that report shall be a review of this Charter and recommendations for any changes perceived necessary.
 5. In carrying out its mission and performing its responsibilities, the Committee shall, at all times, be subject to the *Workers Compensation Act*, and the bylaws and resolutions of the governors of the Workers' Compensation Board.

This Charter of the Industrial Diseases Standing Committee of the governors of the Workers' Compensation Board has been adopted by the governors of the Workers' Compensation Board on April 6th, 1992.

Editors' note: The following governors are appointed as members of the Industrial Diseases Standing Committee from April 6, 1992 for either the fixed terms set out below or the expiration of their term of appointment as a governor, whichever is earlier:

Worker Representative Governors – *Leif Hansen for a term of three years*
– *Stanley J. Shewaga for a term of two years*

Employer Representative Governors – *Robert Hugh Buckley for a term of three years*
– *Murray A. Farmer for a term of two years*

Public Interest Governor – *Bonnie Jean Hayes for a term of two years*

Chairman of the Governors – *James E. Dorsey*

REPORTER

Decision of the Governors

Number: 20
Date: July 13, 1992
Subject: Approval of Proposals to Amend *Rehabilitation Services and Claims Manual* — CM023/CM024

WHEREAS the Workers' Compensation Board is authorized by Section 16 of the *Workers Compensation Act* to provide certain vocational rehabilitation services to injured workers and dependants of deceased workers;

AND WHEREAS Chapter XI — Vocational Rehabilitation Services — of the *Rehabilitation Services and Claims Manual*, which sets out policies and practices with respect to the provision of vocational rehabilitation services by the Workers' Compensation Board, requires amendment;

AND WHEREAS the president and chief executive officer of the Workers' Compensation Board has forwarded to the governors of the Workers' Compensation Board an amendment proposal identified as CM023 in the meeting binder for the governors' July 13, 1992, meeting, which:

1. reorganizes Chapter XI under revised subject and topic headings,
2. deletes from Chapter XI procedural and descriptive content unrelated to policy,
3. rewords Chapter XI to make it clear, consistent, current and gender-neutral,
4. adds to Chapter XI elements of current W.C.B. policy and practice, and
5. recommends policy amendments to Chapter XI considered necessary or desirable in the interests of improved delivery of existing client services;

AND WHEREAS the revised Chapter XI is to be the foundation of future public consultation and policy review and development;

AND WHEREAS the governors have requested that the president and chief executive officer provide a follow-up review and report on the effects of implementation of the revised Chapter XI before September 1, 1993;

AND WHEREAS the president and chief executive officer has also forwarded to the governors an amendment proposal identified as CM024 in the meeting binder for the governors' July 13, 1992, meeting, consisting of a list of amendments to footnotes and cross-references in the *Rehabilitation Services and Claims Manual* which will be required if the governors approve amendment proposal CM023:

NOW THEREFORE THE GOVERNORS RESOLVE THAT they approve amendment proposals CM023 and CM024 as contained in the meeting binder for the governors' July 13, 1992, meeting;

AND THE GOVERNORS FURTHER RESOLVE THAT, in order to provide time to prepare revised Chapter XI of the *Rehabilitation Services and Claims Manual* for printing and to orient W.C.B. staff and community stakeholders, the amendments set out in amendment proposals CM023 and CM024 will come into effect on August 1, 1992.

Editors' note: Manual amendments are presented to the Board of Governors in tabbed binders and are numbered sequentially (e.g. CM023 and CM024 represent Claims Manual amendment 23 and 24). The above resolution was approved on July 13, 1992. The amendments to the Rehabilitation Services and Claims Manual were distributed to Manual subscribers in July and August 1992.

Decision of the Governors

Number: 21

Date: June 1, 1992

Subject: Occupational Safety and Health Regulation Review:
Reimbursement of Expenses for Members of O.S.H. Regulation
Review Subcommittees

WHEREAS the governors of the Workers' Compensation Board have embarked upon a complete review of the *Industrial Health and Safety Regulations*, the *Occupational Environment Regulations*, the *Industrial First Aid Regulations* and the *Workplace Hazardous Materials Information System Regulations* (collectively "the Regulations");

AND WHEREAS, on January 7, 1992, the governors adopted the document entitled "Review and Development of Occupational Safety and Health Regulations" which defines the process by which the governors will review the *Regulations*;

AND WHEREAS, on February 3, 1992, the governors appointed a Regulation Advisory Committee to oversee, under the direction of the governors, the review of the *Regulations* and the governors provided for the payment of a per diem allowance to, and the reimbursement of expenses for, Regulation Advisory Committee members;

AND WHEREAS the document entitled "Review and Development of Occupational Safety and Health Regulations" contemplates that the governors' Committee for Regulation Review will appoint specialty Subcommittees to address specific areas of occupational safety and health regulation;

AND WHEREAS the governors consider it appropriate that members of the specialty Subcommittees be paid the same per diem and be reimbursed for expenses in the same manner as members of the Regulation Advisory Committee;

NOW THEREFORE THE GOVERNORS RESOLVE THAT persons appointed by the governors' Committee for Regulation Review to serve on specialty Subcommittees as part of the Occupational Safety and Health Regulation Review process shall be paid a per diem allowance of ONE HUNDRED SEVENTY-FIVE DOLLARS (\$175.00) and shall be reimbursed for travel and other reasonable expenses for attendance at Subcommittee meetings.



Decision of the Governors

Number: 22
Date: June 1, 1992
Subject: Abolition of Silicosis Fund

WHEREAS Part One of the *Workers Compensation Act* creates a statutory scheme for paying compensation and providing rehabilitation to workers who sustain injuries arising out of and in the course of their employment, to workers who suffer from industrial diseases and to dependants of workers whose deaths result from their employment;

AND WHEREAS Sections 36 and 39 of the *Act* require the W.C.B. to create and maintain from compulsory assessments on employers in industries covered by Part One of the *Act* an "Accident Fund" for the payment of "compensation, outlays and expenses" under Part One;

AND WHEREAS Section 41 of the *Act* provides that:

- (1) . . . the board may provide a separate fund, which shall be known as the silicosis fund.
- (2) For the purpose of creating and maintaining the silicosis fund, the board shall every year assess and levy on and collect from the employers in the metalliferous mining and the coal mining industries, and in any other industries and occupations that the board determines that there is a liability for payment of compensation for silicosis . . . sufficient funds . . . to
 - (a) meet all amounts payable from the silicosis fund during the year;
 - (b) provide capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years in respect of claims from silicosis allowed during the year; and
 - (c) defray the expense of administering the silicosis provisions in this *Act*.. . . ;

AND WHEREAS the Workers' Compensation Board has provided for a Silicosis Fund under Section 41(1) consisting of subclass 203 (Coal Mining) and subclass 204 (Metalliferous Mining) which generally correspond to subclass 430 and subclass 411 of the Accident Fund;

AND WHEREAS, in recent years, surpluses have developed in the accounts for the two Silicosis Fund subclasses and in the account for Accident Fund subclass 430;

AND WHEREAS the W.C.B. and the Government of the Province of British Columbia have received numerous representations from the B.C. mining industry to refund the surplus in the Silicosis Fund subclasses and the surplus in Accident Fund subclass 430;

AND WHEREAS the governors of the Workers' Compensation Board undertook to the minister of Labour and Consumer Services to consider the question of collapsing the Silicosis Fund and disposing of the surplus and the question of the surplus in Accident Fund subclass 430 and, to do so, the governors constituted a special committee of the governors called the Silicosis and Coal Mining Surplus Committee;

AND WHEREAS, on February 3, 1992, the Committee proposed and the governors accepted the recommendation that nothing further should be done with respect to the surplus in subclass 430, but, subject to obtaining independent legal advice, the Silicosis Fund should be abolished by collapsing the assets and liabilities of the Silicosis Fund subclasses 203 and 204 into Accident Fund subclasses 430 and 411 respectively by issuing credits (against Accident Fund contributions) to individual Silicosis fund employers also in the corresponding Accident Fund subclass;

AND WHEREAS the chairman of the governors has obtained a legal opinion dated April 23, 1992, from Irwin G. Nathanson, Q.C., of Nathanson, Schachter & Thompson, Barristers and Solicitors, that:

1. the W.C.B. may abolish the Silicosis Fund;
2. except for surplus, the W.C.B. may merge the assets and liabilities of Silicosis Fund subclasses 203 and 204 into Accident Fund subclasses 430 and 411 respectively; but
3. the W.C.B. is not entitled to transfer surplus assets from the Silicosis Fund to the Accident Fund upon the issuance of credits as proposed; rather, the W.C.B. is obliged upon abolition of the Silicosis Fund to pay out surplus funds to the employers who contributed them in proportion to their respective contributions;

AND WHEREAS the Silicosis and Coal Mining Surplus Committee has recommended to the governors that they accept the legal opinion from Mr. Nathanson, abolish the Silicosis Fund effective the end of 1992 and return the surplus to the appropriate employers:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. the Silicosis Fund shall be abolished effective the end of 1992;
2. the liabilities of Silicosis Fund subclasses 203 and 204, together with sufficient assets to pay those liabilities, shall be merged with subclasses 430 and 411 respectively; and
3. the actuarial calculation of the sufficiency of the assets required to pay those liabilities shall err in the interest of retaining assets to protect and ensure future funding for liabilities payable to workers out of the Silicosis Fund.

Editors' note: This decision does not affect any past, present or future claims of individual workers.



Decision of the Governors

Number: 23

Date: July 20, 1992

Subject: Occupational Safety and Health Regulation Review:
Appointment of Members of the Ergonomics Subcommittee

WHEREAS the governors of the Workers' Compensation Board have embarked upon a complete review of the *Industrial Health and Safety Regulations*, the *Occupational Environment Regulations*, the *Industrial First Aid Regulations* and the *Workplace Hazardous Materials Information System Regulations* (collectively the "Regulations");

AND WHEREAS, on January 7, 1992, the governors adopted the document entitled "Review and Development of Occupational Safety and Health Regulations" (the "Strategy Document") which defines the process by which the governors will review the Regulations;

AND WHEREAS the Strategy Document contemplates that the Governors' Committee for Regulation Review (the "Governors' Committee") will appoint Specialty Subcommittees to address specific areas of occupational safety and health regulation;

AND WHEREAS the Governors' Committee has decided that there should be a Specialty Subcommittee, called the "Ergonomics Subcommittee," to assist the governors in the development of regulations for the work environment and ergonomics and to address specifically the risks of cumulative trauma disorder and back strain;

AND WHEREAS the Governors' Committee has decided to appoint three persons representative of workers and three persons representative of employers to the Ergonomics Subcommittee and to second employees from the W.C.B. Occupational Safety and Health Division, as necessary, to the Secretariat for Regulation Review to participate on the Subcommittee:

NOW THEREFORE THE GOVERNORS' COMMITTEE FOR REGULATION REVIEW RESOLVES THAT the following persons shall be appointed to the Ergonomics Subcommittee:

To be Representative of Workers:

Karen Dean (Hospital Employees' Union)
George Heyman (B.C. Government Employees' Union)
Alanna Lantela (United Fishermen & Allied Workers' Union)

To be Representative of Employers:

Lance Ewing (Audaciter Enterprises Inc.)
Tony Gould (Weiser Lock Inc.)
Brent Sauder (MacMillan Bloedel Research)

AND THE GOVERNORS' COMMITTEE FOR REGULATION REVIEW FURTHER RESOLVES THAT Thirugnana (Bawan) Saravanabawan and Toby Steele shall be appointed to the Ergonomics Subcommittee from the W.C.B. Occupational Safety and Health Division through secondment to the Secretariat for Regulation Review.

Editors' note: This resolution of the Governors' Committee for Regulation Review has been indexed under Decisions of the Governors for ease of reference.

Decision of the Governors

Number: 24
Date: July 20, 1992
Subject: Occupational Safety and Health Regulation Review:
Appointment of Members of the Occupational Hygiene
Subcommittee

WHEREAS the governors of the Workers' Compensation Board have embarked upon a complete review of the *Industrial Health and Safety Regulations*, the *Occupational Environment Regulations*, the *Industrial First Aid Regulations* and the *Workplace Hazardous Materials Information System Regulations* (collectively the "Regulations");

AND WHEREAS, on January 7, 1992, the governors adopted the document entitled "Review and Development of Occupational Safety and Health Regulations" (the "Strategy Document") which defines the process by which the governors will review the Regulations;

AND WHEREAS the Strategy Document contemplates that the Governors' Committee for Regulation Review (the "Governors' Committee") will appoint Specialty Subcommittees to address specific areas of occupational safety and health regulation;

AND WHEREAS the Governors' Committee has decided that there should be a Specialty Subcommittee, called the "Occupational Hygiene Subcommittee," to assist the governors in the development of regulations;

AND WHEREAS the Governors' Committee has decided to appoint four persons representative of workers and four persons representative of employers to the Occupational Hygiene Subcommittee and to second employees from the W.C.B. Occupational Safety and Health Division, as necessary, to the Secretariat for Regulation Review to participate on the Subcommittee:

NOW THEREFORE THE GOVERNORS' COMMITTEE FOR REGULATION REVIEW RESOLVES THAT the following persons shall be appointed to the Occupational Hygiene Subcommittee:

To be Representative of Workers:

Lisa Hansen (Health Sciences Association of British Columbia)
Jim Parker (I.W.A. — Canada)
Larry Stoffman (United Food & Commercial Workers of B.C.)
Gordon Steep (United Steel Workers of America)

To be Representative of Employers:

Dave Bell (Occupational Safety and Health — University of
British Columbia)
Ron Dennis (City of Victoria — Human Resources)
Maurice Fernandes (Weyerhaeuser Pulp Division)
Kent Hillman (B.C. Hydro)

AND THE GOVERNORS' COMMITTEE FOR REGULATION REVIEW FURTHER RESOLVES THAT Peter Gilmour shall be appointed to the Occupational Hygiene Subcommittee from the W.C.B. Occupational Safety and Health Division through secondment to the Secretariat for Regulation Review.

Editors' note: This resolution of the Governors' Committee for Regulation Review has been indexed under Decisions of the Governors for ease of reference.

Decision of the Governors

Number: 25

Date: July 20, 1992

Subject: Occupational Safety and Health Regulation Review:
Appointment of Members of the First Aid Subcommittee

WHEREAS the governors of the Workers' Compensation Board have embarked upon a complete review of the *Industrial Health and Safety Regulations*, the *Occupational Environment Regulations*, the *Industrial First Aid Regulations* and the *Workplace Hazardous Materials Information System Regulations* (collectively the "Regulations");

AND WHEREAS, on January 7, 1992, the governors adopted the document entitled "Review and Development of Occupational Safety and Health Regulations" (the "Strategy Document") which defines the process by which the governors will review the Regulations;

AND WHEREAS the Strategy Document contemplates that the Governors' Committee for Regulation Review (the "Governors' Committee") will appoint Specialty Subcommittees to address specific areas of occupational safety and health regulation;

AND WHEREAS the Governors' Committee has decided that there should be a Specialty Subcommittee, called the "First Aid Subcommittee," to address regulating the installation and maintenance by employers of first aid equipment and services, the training of industrial first aid attendants and instructors, and other regulatory matters arising under Section 70 of the *Workers Compensation Act* and the *Industrial First Aid Regulations*;

AND WHEREAS the Governors' Committee has decided to appoint three persons representative of workers and three persons representative of employers to the First Aid Subcommittee and to second employees from the W.C.B. Occupational Safety and Health Division, as necessary, to the Secretariat for Regulation Review to participate on the Subcommittee:

NOW THEREFORE THE GOVERNORS' COMMITTEE FOR REGULATION REVIEW RESOLVES THAT the following persons shall be appointed to the First Aid Subcommittee:

To be Representative of Workers:

Lisa de Lange (B.C. Ferry & Marine Workers' Union)
Ilona Kenny (Canadian Paperworkers' Union)
Bob Patterson (I.W.A. — Canada)

To be Representative of Employers:

Jim Butterfield (Weldwood of Canada)
Lance Ewing (Audaciter Enterprises Inc.)
Walter Rosner (Cominco Metals);

AND THE GOVERNORS COMMITTEE FOR REGULATION REVIEW FURTHER RESOLVES THAT Al Dresser and Ron Hazelton shall be appointed to the First Aid Subcommittee from the W.C.B. Occupational Safety and Health Division through secondment to the Secretariat for Regulation Review.

Editors' note: This resolution of the Governors' Committee for Regulation Review has been indexed under Decisions of the Governors for ease of reference.

Decision of the Governors

Number: 26
Date: October 26, 1992
Subject: Assignment to President — Adjustments to Certain Amounts Paid Under the *Workers Compensation Act* to Reflect Changes in the Consumer Price Index

WHEREAS the Workers' Compensation Board pays clothing allowances, personal care allowances, an independence and home maintenance allowance, a transportation allowance, and subsistence allowances (the "Allowances") under the *Workers Compensation Act* all of which, in recent years, have been adjusted from time to time to reflect changes in the Consumer Price Index but on an ad hoc basis only;

AND WHEREAS the amount of compensation representing a "substantial amount of compensation" for purposes of Section 10(8) of the *Act* has, in recent years, also been adjusted from time to time to reflect changes in the Consumer Price Index but on an ad hoc basis only;

AND WHEREAS, on August 10, 1992, the governors of the Workers' Compensation Board decided that the Allowances should be updated to 1993, as follows, to reflect changes in the Consumer Price Index since March 1991:

1. effective January 1, 1993, the transportation allowance should increase to 26 cents per kilometre, the per diem subsistence rate should increase to \$37.00 per day and the special subsistence rate to workers electing not to stay at the W.C.B. Residence should increase to \$15 per day,
2. effective January 1, 1993, the personal care allowances and the independence and home maintenance allowance should be increased by the increase in the Consumer Price Index since March 1, 1991, and
3. effective July 1, 1993, the clothing allowances should be increased by the increase in the Consumer Price Index since March 1, 1991;

AND WHEREAS the governors also decided that, effective January 1, 1993, the amount of compensation representing a “substantial amount of compensation” for purposes of Section 10(8) of the *Act* should be increased by the increase in the Consumer Price Index since March 1, 1991;

AND WHEREAS the governors also decided that, commencing January 1, 1994, or (in the case of the clothing allowances) July 1, 1994, the Allowances and the amount of compensation representing a “substantial amount of compensation” for purposes of Section 10(8) should be adjusted annually to reflect changes in the Consumer Price Index since the last adjustment;

AND WHEREAS a question has arisen as to who should have responsibility for ensuring that the formerly ad hoc amounts are adjusted automatically on an annual basis hereafter:

NOW THEREFORE THE GOVERNORS RESOLVE THAT the president and chief executive officer of the Workers’ Compensation Board shall be responsible for ensuring that the personal care allowances, the independence and home maintenance allowance and the amount of compensation representing a “substantial amount of compensation” for purposes of Section 10(8) are increased effective January 1, 1993, by the increase in the Consumer Price Index since March 1, 1991, and that the clothing allowances are increased effective July 1, 1993, by the increase in the Consumer Price Index since March 1, 1991;

AND THE GOVERNORS FURTHER RESOLVE THAT the president and chief executive officer of the Workers’ Compensation Board shall be responsible for ensuring that all the Allowances and the amount of compensation representing “a substantial amount of compensation” for purposes of Section 10(8) are adjusted annually hereafter, commencing on January 1, 1994 or July 1, 1994, as the case may be, in accordance with the formulas set out in the applicable items of the *Rehabilitation Services and Claims Manual* and that this responsibility shall be included in the definition of the functions of the president and chief executive officer under Section 82(a)(i) of the *Workers Compensation Act*.

Decision of the Governors

Number: 27
Date: October 26, 1992
Subject: Appointments of Members of the
Governors' Financial Standing Committee

WHEREAS, on April 6, 1992, the governors of the Workers' Compensation Board constituted the Governors' Financial Standing Committee (the "Committee") pursuant to Section 82(b)(i) of the *Workers Compensation Act* and Section 8 of Bylaw No. 3 (Board of Governors Procedural Bylaw);

AND WHEREAS the Committee shall consist of one worker representative governor, one employer representative governor, one public interest governor, and, on an ex officio basis, the chairman of the governors;

AND WHEREAS a quorum of the Governors' Financial Standing Committee shall consist of the worker representative governor, the employer representative governor, and either the public interest governor or the chairman of the governors;

AND WHEREAS, Peter Cameron, the worker representative governor appointed to the Committee on April 6, 1992 resigned as a governor on Friday, July 10, 1992:

NOW THEREFORE THE GOVERNORS RESOLVE THAT Len Werden is appointed to the Governors' Financial Standing Committee as the worker representative governor, on a temporary basis, from July 13, 1992 until October 26, 1992, inclusive, AND THAT the presence of Len Werden at any meeting of the Committee between July 13, 1992 and October 26, 1992 shall be counted as part of the quorum required for the Committee to conduct its business;

AND THE GOVERNORS FURTHER RESOLVE THAT effective October 27, 1992, Maureen Whelan is appointed to the Governors' Financial Standing Committee as the worker representative governor until the expiration of her term of appointment as governor.



REPORTER

Decision of the Governors

Number: 28
Date: October 26, 1992
Subject: Approval of Retroactive Implementation of Changes in W.C.B. Policy Necessitated by Appeal Division Decision No. 91-0850 and Appeal Division Decision No. 92-1210

WHEREAS on November 22, 1991, the Appeal Division of the Workers' Compensation Board issued Decision No. 91-0850 in which the Appeal Division held that:

- 1) The Board has the authority to declare and collect overpayments arising through administrative error.
- 2) Generally, the Board does not have the authority to retroactively adjudicate a claim and thereby create a debt owed by a worker to the Board.
- 3) The Board does have the authority to retroactively adjudicate and create a debt owed to the Board in situations of fraud or misrepresentation by the worker or where the decision under review was not one within the statutory authority of the Board.
- 4) The Board must pay any additional benefits to a worker that are a result of retroactive adjudication.;

AND WHEREAS on March 2, 1992, the governors of the Workers' Compensation Board approved prospective amendments to the *Rehabilitation Services and Claims Manual* necessitated by Appeal Division Decision No. 91-0850;

AND WHEREAS a question remains as to what action should be taken with respect to prior W.C.B. decisions to recover monies from workers and dependants;

AND WHEREAS on June 23, 1992, the Appeal Division of the Workers' Compensation Board issued Decision No. 92-1210 in which the Appeal Division held that W.C.B. policy with respect to the transfer of experience rating when an employer transfers the employer's business to a different legal entity, for example, from a proprietorship to a corporation, was not in conformity with the *Workers Compensation Act*;

AND WHEREAS on October 5, 1992, the governors approved prospective amendments to the *Assessment Policy Manual* necessitated by Appeal Division Decision No. 92-1210 which allow the transfer of experience rating where a business is transferred if the ownership of the business is substantially unchanged;

AND WHEREAS a question remains as to what action should be taken with respect to prior W.C.B. decisions not to permit a transfer of experience rating in these circumstances;

AND WHEREAS the governors consider that the implementation of the policy changes necessitated by Appeal Division Decision No. 91-850 and Appeal Division Decision No. 92-1210 raises a general question of the extent to which retroactive effect should be given to a change in W.C.B. policy where that policy has been found to be unlawful;

AND WHEREAS the governors intend to adopt a general retroactivity policy in this respect;

AND WHEREAS, pending the adoption of a general retroactivity policy, the governors consider it necessary to address the specific retroactivity issues relating to the policy changes necessitated by Appeal Division Decision No. 91-850 and Appeal Division Decision No. 92-1210, on the understanding that the governors' decisions in this respect do not constitute a precedent for any future decisions on the extent to which changes in policy should be given retroactive effect either in specific instances or as a matter of general policy:

NOW THEREFORE THE GOVERNORS RESOLVE THAT the policy approved by the governors on March 2, 1992 with respect to overpayments will apply as of January 1, 1980 and that the W.C.B. will, without application from workers and dependants, refund all monies collected by the W.C.B. with respect to overpayments resulting from decisional errors where the decision declaring the overpayment was made on or after January 1, 1980;

AND THE GOVERNORS FURTHER RESOLVE THAT the policy approved by the governors on October 5, 1992 with respect to transfer of experience rating will apply to transfers between June 1, 1988 and October 5, 1992 where the employer requests it and that, on and after October 5, 1992, the policy will apply whether or not the transfer is favourable to the employer.