

REPORTER

Decision of the Governors

Number: 51
Date: September 7, 1993
**Subject: Approval of Interest Policy Under New Section 19
Brought Into Force on August 19, 1993**

WHEREAS Section 19(1) and (2) of the *Workers Compensation Act* has been repealed effective August 19, 1993 and new Section 19(1), (2), and (2.1) substituted;

AND WHEREAS new Section 19(2) provides for the payment of retroactive dependants' benefits and of interest on those retroactive benefits;

AND WHEREAS new Section 19(1) defines "interest" to mean "interest calculated at a rate and in a manner set by the board for the purposes of this section";

AND WHEREAS THE GOVERNORS OF THE WORKERS' COMPENSATION BOARD have considered the general interest policy of the W.C.B., as set out in #50.00 of the *Rehabilitation Services and Claims Manual*, in relation to new Section 19 and have concluded that interest on retroactive dependants' benefits under new Section 19 would be most appropriately calculated at the rates and in the manner set out in that policy:

NOW THEREFORE THE GOVERNORS RESOLVE THAT "interest" for the purposes of new Section 19 of the *Workers Compensation Act*, as brought into force on August 19, 1993, will be calculated at the rates and in the manner set out in #50.00 of the *Rehabilitation Services and Claims Manual*.



REPORTER

Decision of the Governors

Number: 52
Date: September 17, 1993
Subject: **Priorities and Focus of the President and Chief Executive Officer of the Workers' Compensation Board in Complying with Section 84(3)(b) and (d) of the *Workers Compensation Act***

WHEREAS Section 84(3)(b) and (d) of the *Workers Compensation Act* provides that the president and chief executive officer of the Workers' Compensation Board is responsible to the governors and shall implement the policies of the governors with respect to administration of the W.C.B. and carry out any other functions and duties assigned to the president by the governors;

AND WHEREAS the governors consider it necessary to identify specific areas of priority and focus for the president in complying with Section 84(3)(b) and (d) of the *Act*:

NOW THEREFORE THE GOVERNORS RESOLVE THAT the specific areas of priority and focus for the president in complying with Section 84(3)(b) and (d) of the *Workers Compensation Act* at the present time are as set out in the document entitled *Priorities and Focus of the President/C.E.O.* attached to this resolution as Appendix "A".

Appendix “A”

Priorities and Focus of the President/C.E.O.

In defining the functions of the president/C.E.O., the governors will from time to time identify specific areas of priority focus. The governors have determined the following items to be priorities for president and C.E.O. at the present time.

1.0 Fiscal Responsibility

The Workers’ Compensation Board must conduct itself in all its activities in a manner which demonstrates prudent and responsible use of its resources. The president/C.E.O. is expected to establish this focus by:

- (a) Demonstrating leadership in the prudent and responsible use of resources. His/Her personal decisions, choices and behaviour will demonstrate a recognition that resources must be efficiently used. Internal perks, benefits and support resources will be closely linked to those found in the external community.
- (b) Demonstrating leadership in long-term financial planning for the organization that is responsive to current and forecast global activity, historical trends, and the impact of internal change. Measures will be in place to ensure that objectives established in the Board’s operational and strategic plans are met.
- (c) Demonstrating leadership in establishing a “value for money” approach to operational decision making. Prospective decision will be subject to an effective cost/benefit analysis, and success of past decisions will be measured for success in reaching intended objectives within the projected costs.

2.0 Role and Responsibilities as a Non-Voting Governor

The president/C.E.O. is the conduit between the Board of Governors and the administration. Success in this role depends on and will be measured through president/C.E.O. effectiveness in:

- (a) Development of confidence and trust in the C.E.O. in both the Board of Governors and the organization. The governors must have confidence that they are fully informed on significant events and initiatives affecting the success of the organization in serving its clients, and/or public confidence in

its fiscal, moral and policy integrity; and that proposals and recommendations submitted for the governors' approval have been developed in consultation with the governors and are supported by accurate and well-analyzed data. The organization and, in particular, the executive group must have confidence that the president/C.E.O. accurately and fully represents the governors to them and is committed to the governors' policies and objectives.

- (b) Identification of significant policy issues following by planning, review and policy development in a manner consistent with the governors' expectations that such procedures will be open, consultative and will involve community stakeholders and staff who have a contribution to make.
- (c) Acting as an effective conduit for information between the organization and the governors. This involves managing the executive and governors' business agendas in keeping with statutory requirements, effective reporting to the governors on the activities and health of the organization and clear articulation and support of the governors' policies, objectives and values to the organization. A major focus will be clearing away the informational and perceptual "fog" that can develop in any bureaucratic organization, rather than contribution to it.

3.0 Managing and Developing the Corporate Culture

The success of the Workers' Compensation Board depends on the knowledge, skill and commitment of our employees and the availability of the financial resources necessary to support their activities. The C.E.O. will support their effectiveness through:

- (a) Demonstrating recognition that the organization's human resource capital is its greatest asset. Direct reports will be expected to foster a sense of purpose, develop enlightened strategies, attract committed people and view work environments as continual learning structures through which service and performance is improved. Performance will be assessed identifying strengths and weaknesses, fostering accountability and encouraging skill acquisition through mentoring and rewarding others who seek personal mastery.
- (b) Building an effective executive team. The C.E.O. will select and develop executives whose skills and strength complement those of the C.E.O. leading to a team more capable than any individual member; will ensure the values of the organization are reflected in team decisions and ensure direct reports understand how their functions support those of their peers. Over time, the president/C.E.O. will have identified, mentored and planned the transition to his successor.

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- (c) Demonstrating and modelling the human resource leadership skills and values expected throughout the organization. Planning, analysis, decision making, agenda management and team building will foster a culture of respect, empowering delegation, setting of clear performance expectations, and accountability.

4.0 Change Management

The British Columbia Workers' Compensation Board has emerged from an extended period of little change in organizational and policy development. There is a major backlog of needed change in both areas needing capable president/C.E.O. leadership. Successful leadership will require:

- (a) President/C.E.O. commitment to ongoing change through recognition and rewarding effective managerial change agents and acknowledging well-directed efforts.
- (b) Recognition that change is a proactive process directed at the future and is as likely to occur incrementally as through major shifts.
- (c) Manages change resisters, whether systemic or personal while recognizing that questioning of proposals is not necessarily opposition, and that the internal culture and values must be considered and accommodated in change initiatives.

Decision of the Governors

Number: 53
Date: December 6, 1993
Subject: Transfer of Aquaculture from the Farm and Ranch Assessment Subclass

WHEREAS on April 5, 1993, the governors of the Workers' Compensation Board made Regulations for Agricultural Operations to apply to all employers, workers and other persons working in or contributing to any agricultural production of the farming industry as defined in B.C. Regulation 434/82, with the exception of aquaculture;

AND WHEREAS on April 5, 1993, the governors also resolved that Sections 2, 4, 6, and 8 of the *Industrial Health and Safety Regulations* (B.C. Reg. 585/77 as amended by B.C. Regs. 71/82, 126/82 and 523/82), as they may be amended from time to time, would apply to the farming industry as defined in Regulation 434/82, with the exception of aquaculture;

AND WHEREAS on April 5, 1993, the governors also approved the establishment of the Farm and Ranch Safety and Health Agency (F.A.R.S.H.A.) to be funded by the Workers' Compensation Board through levy and assessment on the assessment subclass to which the farming industry, as defined by B. C. Reg. 434/82, with the exception of aquaculture, belongs;

AND WHEREAS aquaculture, or the "commercial fish farm" industry belongs to the assessment subclass (0643) that will be subject to the levy and assessment for the funding of F.A.R.S.H.A.;

AND WHEREAS Section 37 of the *Workers Compensation Act* authorizes the Workers' Compensation Board to create and rearrange assessment classes or subclasses and to make the adjustment and disposition of funds, reserves and accounts which is considered just and expedient;

AND WHEREAS the accounts of assessment subclass 0643 have a 1992 unappropriated balance or surplus of \$3,383,000 and a 1991 assessable payroll of \$224,791,293 of which \$12,050,786 was the 1991 assessable payroll of the "commercial fish farm" industry;

AND WHEREAS the president and Executive Committee presented a recommendation to the governors at their April 5, 1993 meeting that, subject to consultation with the agriculture industry and employers in assessment subclass 0906, aquaculture or the “commercial fish farm” industry be transferred from subclass 0643 to subclass 0906 and that \$181,000 of the unappropriated balance or surplus in the accounts for subclass 0643 be transferred to the accounts of subclass 0906 as well, both effective January 1, 1993;

AND WHEREAS the governors requested that further public consultation be conducted with respect to the recommendation, that public consultation has been completed and all stakeholders who responded either were of the view that the transfer of aquaculture or the “commercial fish farm” industry from subclass 0643 to subclass 0906 was correct or expressed no opinion:

NOW THEREFORE THE GOVERNORS RESOLVE THAT they accept the recommendation that, effective January 1, 1993, aquaculture or the “commercial fish farm” industry be withdrawn from assessment subclass 0643 and wholly transferred to assessment subclass 0906 as a separate industry within that subclass;

AND THE GOVERNORS FURTHER RESOLVE THAT \$181,000 of the unappropriated balance or surplus of subclass 0643 be transferred from the accounts of subclass 0643 to the accounts of subclass 0906, effective January 1, 1993, as well.

Decision of the Governors

Number: 54

Date: December 6, 1993

Subject: Occupational Safety and Health Regulation Review: Regulation Advisory Committee Rescindment of Appointment/Appointment of New Member

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, on February 3, 1992, the governors appointed to the Regulation Advisory Committee seven persons representative of workers and seven persons representative of employers;

AND WHEREAS one person appointed to the Regulation Advisory Committee on February 3, 1992, has resigned from the Committee and the governors wish to appoint another person to replace him:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. The appointment of Mr. B.A. Hawrysh to the Regulation Advisory Committee as a representative of employers is rescinded effective November 5, 1993.

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2. Mr. Ian May, manager, Occupational Safety and Health, Interior Lumber Manufacturers' Association, is appointed as a member of the Regulation Advisory Committee, effective December 6, 1993, to be representative of employers.
 3. Mr. May 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: 55
Date: December 6, 1993
Subject: Appointment of Member of the Governors' Industrial Diseases Standing Committee

WHEREAS, on April 6, 1992, the governors of the Workers' Compensation Board constituted the Governors' Industrial Diseases 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 two worker representative governors, two employer representative governors, one public interest governor, and the chairman of the governors;

AND WHEREAS the appointment as governor of Murray Farmer, one of the employer representative governors appointed to the Committee on April 6, 1992, expired on December 3, 1993:

NOW THEREFORE THE GOVERNORS RESOLVE THAT Horst Sander is appointed to the Governors' Industrial Diseases Standing Committee as an employer representative governor until the expiration of his term of appointment as governor.



REPORTER

Decision of the Governors

Number: 56
Date: January 10, 1994
Subject: Ratification of Medical Review Panel Fee Schedule Effective January 1, 1994

WHEREAS:

- A. 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
- B. the chairman of the governors has given final approval to the fee schedule for Medical Review Panels held on and after January 1, 1994 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, 1994:

1. the hourly rate payable to the chairmen of Medical Review Panels is \$138.04 (formerly \$136.99),
2. the flat fee payable to Panel members other than the chairmen is \$460.47 (formerly \$456.95), with an additional fee of \$101.26 (formerly \$100.49) per hour when the time taken on an appeal (including travelling time) exceeds 3½ hours up to a maximum of a further 4½ hours, and
3. the stenographic fee for each appeal is \$69.13 (formerly \$68.60).



Decision of the Governors

Number: 57

Date: January 10, 1994

Subject: Appointments of Members of the Governors' Financial Standing Committee

WHEREAS:

- A. 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);
- B. 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;
- C. 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
- D. the appointment as governor of John St. C. Ross, the employer representative governor appointed to the Committee on April 6, 1992, expired on December 3, 1993:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

- 1. R.H. (Bob) Buckley is appointed to the Governors' Financial Standing Committee as the employer representative governor, on a temporary basis, from December 3, 1993 up to and including January 10, 1994;
- 2. the presence of R.H. (Bob) Buckley at any meeting of the Committee between December 3, 1993 and January 10, 1994, inclusive, shall be counted as part of the quorum required for the Committee to conduct its business; and
- 3. effective January 11, 1994, Richard Baker is appointed to the Governors' Financial Standing Committee as the employer representative governor until the expiration of his term of appointment as governor.



REPORTER

Decision of the Governors

Number: 58
Date: January 10, 1994
Subject: Approval of Interim 1994 F.A.R.S.H.A. Funding

WHEREAS:

- A. on April 5, 1993, the governors of the Workers' Compensation Board approved the establishment of the Farm and Ranch Safety and Health Agency (F.A.R.S.H.A.);
- B. funding for F.A.R.S.H.A. is to be provided by the W.C.B. through levy and assessment on the farm and ranch subclass (0643) and the annual F.A.R.S.H.A. budget is subject to the approval of the governors;
- C. due to the length of time it is taking to establish F.A.R.S.H.A., the F.A.R.S.H.A. Board of Directors is unable to present a 1994 budget to the governors until spring, 1994; and
- D. the F.A.R.S.H.A. Board of Directors has requested an interim advance of \$150,000 to keep F.A.R.S.H.A. operating;

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

- 1. they approve an interim advance of \$150,000 from the 1994 F.A.R.S.H.A. budget to keep F.A.R.S.H.A. operating until the Board of Directors is able to submit a formal budget to the governors, and
- 2. in order to receive further funding from the W.C.B., the F.A.R.S.H.A. Board of Directors shall submit a formal budget to the governors by May 2, 1994.



Decision of the Governors

Number: 59
Date: January 10, 1994
Subject: Classification, Setting of Rates and Application of Experience Rating for Industries to which Mandatory Coverage by the *Workers Compensation Act* is Being Extended on January 1, 1994

WHEREAS:

- A. the *Workers Compensation Amendment Act, 1993* amended the *Workers Compensation Act* (the "Act") effective January 1, 1994 so that Part One of the Act applies to "all employers, as employers, and all workers in British Columbia, except employers or workers exempted by order of the board";
- B. as a result, employers and workers who were previously not covered by Part One of the Act, or covered through voluntary application, are mandatorily covered effective that date unless exempted by order of the Workers' Compensation Board;
- C. for the purpose of assessment in order to create and maintain the accident fund for the payment of compensation, outlays and expenses under the *Workers Compensation Act* and the *Workplace Act*, Section 36 of the Act divides all industries within the scope of Part One into classes;
- D. Section 37 of the Act empowers the W.C.B.:
 - (a) create new classes in addition to those mentioned in Section 36,
 - (b) consolidate or rearrange any existing class, and
 - (c) withdraw from a class an industry or a part of a class or subclass included in it and transfer it wholly or in part to another class, or form it into a separate class,

and, in doing so, the W.C.B. may make the adjustment and disposition of the funds, reserves and accounts of the classes affected that is considered just and expedient;

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- E. pursuant to Sections 36 and 37, the W.C.B. has established a classification structure for industries within the scope of Part One of the *Act* which, as mentioned in Policy No. 30:20:10 of the *Assessment Policy Manual*, is set out in the *Classification and Rate List*;
 - F. Section 39(1) of the *Act* requires the W.C.B., each year, to assess and levy on and collect from independent operators and employers in each class sufficient funds to meet all amounts payable from the accident fund during the year and to provide certain reserves;
 - G. in complying with Section 39(1), the W.C.B. establishes an assessment rate for each subclass of industry within the scope of Part One of the *Act*;
 - H. Section 42 of the *Act* requires the W.C.B. to establish subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as may be considered just; and where the W.C.B. thinks a particular industry or plant is shown to be so circumstanced or conducted that the hazard or cost of compensation differs from the average of the class or subclass to which the industry or plant is assigned, the W.C.B. shall confer or impose on that industry or plant a special rate, differential or assessment to correspond with the relative hazard or cost of compensation of that industry or plant, and for that purpose may also adopt a system of experience rating;
 - I. the W.C.B. has, by policy, established an experience rating assessment (E.R.A.) plan pursuant to Section 42; and
 - J. the W.C.B. is required by the *Act* to determine the classifications and the 1994 assessment rates for, and by policy to determine the application of the E.R.A. plan to, industries whose employers and workers were previously not covered by Part One of the *Act*, or covered through voluntary application, but are now covered mandatory:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. the 1993 *Classification and Rate List* which sets out the classification structure and assessment rates for industries within the scope of Part One of the *Act* for 1993 constitutes published policy of the governors within the meaning of Decision of the Governors No. 3 (*Workers' Compensation Reporter*, Vol. 7(1), p. 17) and may only be amended by the governors;
2. the *Classification and Rate List* shall be reissued annually to incorporate any changes made by the governors to the classification and assessment rates,

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3. the classification structure in the 1993 *Classification and Rate List* is amended, effective January 1, 1994, as follows:
- (a) new Classes 31 and 33:
 - (i) new Classes 31 and 33 are created, with the subclasses and industry groups set out in SCHEDULE "A" to this resolution,
 - (ii) the withdrawals from existing classes, subclasses, and industry groups and transfers to new Classes 31 and 33 and their subclasses and industry groups are effected in accordance with the applicable "Description of Industry Group," and
 - (iii) new industries are assigned to new Classes 31 and 33 and their subclasses and industry groups in accordance with the applicable "Description of Industry Group";
 - (b) in existing Class 6:
 - (i) in existing Class 6, the new subclasses and industry groups set out in SCHEDULE "B" to this resolution are created,
 - (ii) the withdrawals from existing subclasses and industry groups in Class 6 and transfers to the new subclasses and industry groups in accordance with the applicable "Description of Industry Group" are effected, and
 - (iii) new industries are assigned to Class 6 and its subclasses and industry groups in accordance with the "Description of Industry Group";
 - (c) existing industry groups in existing classes and subclasses are rearranged as set out in SCHEDULE "C" to this resolution;
 - (d) any industry not assigned by this resolution to a class, subclass and industry group that was immediately prior to January 1, 1994, assigned on a voluntary basis to a class, subclass and industry group will remain so assigned; and
 - (e) the industry group code for any industry group from which all industries have been withdrawn as a result of this resolution is rescinded;

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4. the W.C.B. Administration is directed to classify employers who were previously not covered by Part One of the *Act*, or covered through voluntary application, in accordance with the classification structure in the 1993 *Classification and Rate List* as amended by this resolution;
 5. the 1994 assessment rates set out in SCHEDULES "A," "B," and "C" are approved;
 6. with respect to new subclasses created by this resolution:
 - (a) no surplus or deficit shall be transferred from an existing subclass to any subclass created by this resolution, and, if, as a result of this resolution, there are no employers remaining in an existing subclass, any surplus or deficit for that subclass will be spread over the remaining subclasses in the Class, and
 - (b) the limitation in assessment rate change utilized in determining the maximum assessment rate increases or decreases for other subclasses will not apply to subclasses created by this resolution until the determination of their assessment rates for 1999;
 7. both employers who were not previously covered by Part One of the *Act* and employers who were previously covered through voluntary application will begin qualifying for the E.R.A. plan effective January 1, 1994;
 8. the 1993 *Classification and Rate List*, a copy of which shall be initialled on its cover by the chairman of the governors and retained in the records of the Office of the Governors, shall be republished as the 1994 *Classification and Rate List* to incorporate:
 - (a) the changes to the classification structure made by this resolution,
 - (b) the 1994 assessment rates approved by the governors at their regular meeting on October 4, 1993, and
 - (c) the 1994 assessment rates set out in SCHEDULES "A," "B," and "C" to this resolution,

and the chairman of the governors is authorized to approve, on behalf of the governors, the amendments to the *Classification and Rate List* required as a result of this resolution; and

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9. the W.C.B. Administration is directed to present to the governors for approval a draft 1995 *Classification and Rate List* at the same time the Administration presents the 1995 assessment rates for approval.

Schedule "A" New Classes 31 and 33

New Class 31

Subclass 3101

(Subclass Assessment Rate — \$.25)

Industry Group Code	Description of Industry Group
310101	Doctors' Offices; Dentists' Offices; Offices or Establishments for the practice of any of the Healing Arts or Sciences, N.E.S.; Audiometric Testing Services; Chiropractic Services; Medical Clinics; Hypnotism Services; Acupuncture Services; Massage Services; Optometry Services; Physiotherapy Services; Psychology Services; Laser Therapy Treatment Clinics
310102	Dental Laboratories; Medical Laboratories; X-ray Laboratories

New Class 33

Subclass 3301

(Subclass Assessment Rate — \$.25)

Industry Group Code	Description of Industry Group
330101	Accountants' Offices; Bookkeeping Services; Income Tax Services
330102	Law Offices; Notary Public Services

Subclass 3302

(Subclass Assessment Rate — \$.25)

Industry Group Code	Description of Industry Group
330201	Addressing Services; Mailing Services
330202	Advertising Agencies (no printing); Public Relations Services; Modeling Agencies; Talent Agencies; Booking Agencies

330203	Bailiffs' Operations; Collection Agencies
330204	Travel Agencies; Bed and Breakfast Registries
330205	Consulates; Foreign Embassies
330206	Administration of an Operation Conducted Outside the Province
330207	Telephone Answering Services; Package Office Services
330208	Dating Services; Escort Services
330209	Employment Agencies; Aptitude Testing Services
330210	Weather Stations

Subclass 3303
(Subclass Assessment Rate — \$.25)

Industry Group Code	Description of Industry Group
330301	Better Business Bureaus; Chambers of Commerce; Resource Centres (excluding counseling)
330302	Business Consulting Services; Marketing Research; Translating/ Interpreting Services
330303	Computer Programming Services; Computer Bulletin Board Services; Data Processing Services
330304	Labour Relations Services; Arbitration Services

Subclass 3304
(Subclass Assessment Rate — \$.25)

Industry Group Code	Description of Industry Group
330401	Financial and Lending Institutions; Cheque Cashing Services; Mortgage Brokers
330402	Insurance Carriers, Agencies and Adjusters' Services; Actuarial Services; Bonding Services

330403 Investment Services

330404 Real Estate Agencies; Appraising Services

Subclass 3305
(Subclass Assessment Rate — \$1.00)

Industry Group Code	Description of Industry Group
330500	In-home Child Caregivers

Schedule “B” — New Subclasses or Industry Groups in Existing Class 6

1. The following new industry groups are created in subclass 0627 (Subclass Assessment Rate — \$1.08):

Industry Group Code	Description of Industry Group
062715	Sports instruction activities, including Ski Schools (not allied with a retail shop or ski lodge), Hockey Schools, Sailing Schools, and Golf or Tennis Schools
062716	Administration of sports teams

2. The following new industry groups are created in subclass 0646 (Subclass Assessment Rate — \$.37):

Industry Group Code	Description of Industry Group
064602	Bands and orchestras
064603	Entertainment Productions Other than Television or Motion Picture, N.E.S.

3. The following new industry group is created in subclass 0656 (Subclass Assessment Rate — \$.17):

Industry Group Code	Description of Industry Group
065601	Employer Associations

4. The following new subclass and industry group are created:

Subclass 670
(Subclass Assessment Rate — \$.25)

Industry Group Code	Description of Industry Group
067000	Churches; Religious Organizations

**Schedule “C” — Changes to Existing Industry Groups
in Existing Classes and Subclasses**

1. “Monitoring of Alarm Systems” is withdrawn from industry group 062113, class 6, subclass 0621 and transferred to industry group 062211, class 6, subclass 0622. (Subclass Assessment Rate — \$1.98)
2. “Customs Brokers” are withdrawn from industry group 062113 in class 6, subclass 0621, and transferred to industry group 090900 in class 9, subclass 0909. (Subclass Assessment Rate — \$.41)
3. “Acting Schools” are added to industry group 140604 in class 14, subclass 1406. (Subclass Assessment Rate — \$.55)

Decision of the Governors

Number: 60
Date: February 7, 1994
Subject: Exemption from Coverage Under Part One of the *Workers Compensation Act*

WHEREAS:

- A. the *Workers Compensation Amendment Act, 1993* amended the *Workers Compensation Act* (the "Act") effective January 1, 1994 so that, under Section 2(1) of the Act, Part One applies to "all employers, as employers, and all workers in British Columbia, except employers or workers exempted by order of the board"; and
- B. the governors must determine how the exemption authority of the Workers' Compensation Board is to be exercised under Section 2(1) of the Act:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. The governors will, as a matter of policy, decide whether general exemption orders will be made under Section 2(1) of the Act. In making their decisions, the governors will have regard, among other considerations, to the following principles:
 - (a) Section 2(1) creates a scheme of *universal* coverage, with exemptions being granted for *exceptional* industries or occupations whose circumstances do not fit the purpose and intent of the Act.
 - (b) Exemption orders will only be made in respect of industrial or occupational groups. Exemption orders will not be granted to individual persons or businesses unless the person or business constitutes the entire industrial or occupational group.
 - (c) Although the following principles underlie the purpose and intent of the Act, an industry or occupation will not be automatically exempted because one or more of the principles do not necessarily apply:
 - (i) prevention of injuries and occupational diseases,

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- (ii) compensation is paid for earnings losses resulting from injuries and diseases up to a maximum wage rate, medical expenses are reimbursed and rehabilitation provided,
 - (iii) coverage is limited to employment relationships and activities,
 - (iv) compensation is no fault and in lieu of the right to sue,
 - (v) compensation is a cost of production for the products and services marketed by the employer, not a charge on the taxpayer, and
 - (vi) collective liability of classes of employers for compensation and other costs of the system.
- (d) The following circumstances will not by themselves be sufficient to result in a general exemption order being made:
- (i) wishes of employers and workers,
 - (ii) size of the employer's operations,
 - (iii) coverage through private disability plans, or
 - (iv) degree of risk of injury.
- (e) Since the W.C.B. is a tribunal charged with administering a statute, principles of good public administration should be applied.
2. The W.C.B. vice-president, Finance/Information Services, or W.C.B. officers designated in writing by the vice-president, Finance/Information Services, may, on request, grant or terminate voluntary coverage for an individual person or business by varying the governors' general exemption order. This will, however, be limited to situations where making the variance would be consistent with the reasons for which the exemption order has been made.
 3. Pursuant to Section 2(1) of the *Act*, the governors make the following general exemption set out in SCHEDULE "A" to this resolution.
 4. The president will present to the governors manual amendment proposals to bring the governors' policy manuals into conformity with the extension of mandatory coverage provisions of the *Act* that came into force on January 1, 1994 and this resolution.
 5. This resolution is a policy decision of the governors of the Workers' Compensation Board.

Schedule “A”

The governors of the Workers’ Compensation Board of British Columbia make the following exemption orders, pursuant to Section 2(1) of the *Workers Compensation Act*:

1. A person employed by the owner or occupier in or around a private residence, otherwise than for the purpose of the owner’s or occupier’s trade or business, or employed in serving the personal needs of the owner or occupier or their family is exempt where:
 - (a) the person is regularly employed for a definite or indefinite period on a weekly, monthly or similar basis for an average of less than
 - (i) eight working hours per week, or
 - (ii) fifteen working hours per week and the person is employed caring for children in the period immediately preceding and following school; or
 - (b) the person is employed to do a specific job or jobs involving a temporary period of less than 24 working hours.

The reasons for making this exemption order are set out in Appendix A to this Schedule.

2. Both spouses involved in unincorporated businesses are exempt where one or both own the business. “Spouse” includes common law and same sex spouses. The reasons for making this exemption order are set out in Appendix B to this Schedule.
3. Non-resident employers and workers temporarily working in British Columbia, who would have been excluded by Policy 20:30:40 of the *Assessment Policy Manual* prior to January 1, 1994, are exempt, provided they are covered in another jurisdiction that provides compensation for occupational injuries and diseases. The reasons for making this exemption order are set out in Appendix C to this Schedule.
4. Professional sports competitors are exempt. Coaches, office, management or other support staff do not fall within the terms of this exemption. The reasons for making this exemption order are set out in Appendix D to this resolution.

Appendix A — Domestic Workers

Domestic workers were not covered prior to January 1, 1994, because their industry was not listed in Section 2 and Schedule A of the *Act*.

Where an industry was covered prior to *Bill 63*, the *Act* only applied to “employers and workers” in the industry. The provisions of the *Act* and the policies of the governors that define who they are and determine their rights and obligations remain essentially the same. However, the removal of the omissions from coverage by *Bill 63* raises particular issues concerning persons employed by householders.

The nature of these issues is discussed in Section 50.10 of Larson’s *Law of Workmen’s Compensation* as follows:

It has always been assumed, rightly or wrongly, that the cost of compensation protection did not become a burden upon the employer directly, since he was expected to pass the cost along to the consumer in the price of the product. . . .

When a similar liability is imposed upon the householder, however, who produces and sells no goods or services that can bear the cost of compensation insurance, the law has gone one step further and said that any employer, solely because he stands in the employment relation to an employee, is liable without fault for the latter’s injuries and must assume and absorb the entire and ultimate cost himself. . . .

. . . simply to impose workmen’s compensation liability on householders . . . would mean, first, that the employer would bear all the cost of protection . . . and, second, that he could never be quite sure in advance whether he needed compensation insurance and what his potential future liability might be. No closer questions can be found in the entire shadowy realm of employee status than the very questions that would face the householder many times every year: the status of directly hired window washers, repairmen, snow shovellers, grass mowers, baby sitters, and all the army of artisans whose visits are a normal and frequent incident in the life of a house owner. . . .

This is not to say that some such protection should not be worked out. The point here is merely that the job cannot properly be done by a simple sweeping extension of existing

compensation laws to this class of employers and employees. The effect, both on the administration of the act . . . and on the peace of mind of the average once-in-a-while employer would be chaotic. But if special machinery for insurance and administration could be devised and particularly if some means could be found of achieving . . . predictability of liability, the desired extension of coverage might be successfully accomplished.

If no exemption were granted, the status of each person employed to do a job in a home would be a matter of individual determination. The Board might create policies and practices to assist the process but it would be possible for each decision to be challenged on the basis that there was or was not an employment relationship. The policies and practices created would tend towards coverage for virtually every person employed in a home at a money wage, regardless of the nature of the work, the person employed and the length of the job. This would in turn raise questions as the ability of the Board to uniformly enforce compensation and prevention coverage, the administrative cost of doing so and extent of the resulting intrusion of the Board's mechanisms into private homes.

The exemption process is a means of providing predictability and avoiding disputes. It establishes a definite rule as to who is not covered under the *Act*. This allows the Board to define who it requires to register. A person may still argue that he or she need not register because there is no employment relationship. However, an exemption should reduce this potential by covering the situations where a dispute is most likely. The line drawn by the exemption should make the Board's administration simpler, more effective and less intrusive.

The exemption for domestic workers is based on two main factors, namely number of hours worked, and regularity of work. It assumes that the longer the hours worked and the more regular the hours, the more likely an employment relationship will exist, and vice versa. It exempts regularly employed persons working less than eight hours a week and other persons doing a job lasting less than 24 hours. This assumes that a lesser number of hours worked regularly may suffice to establish an employment relationship than would be required for one isolated period of employment.

For regularly employed persons looking after children before and after school, 15 hours is substituted for eight hours. This is to deal with what is probably the most common situation in which householders employ persons. The concern here is with the ability of the Board to administer coverage and limiting the extent of the Board's intrusion into the home.

Appendix B — Businesses Operated by Spouses

Prior to *Bill 63*, the proprietors or partners of unincorporated businesses were not covered unless they requested personal optional protection under Section 3(3) of the *Act*. This is because they were independent operators rather than workers. The same situation exists under *Bill 63* but Section 2(2) has replaced Section 3(3).

Bill 63 does, however, make a significant difference to unincorporated family businesses. Spouses and children under 19 of the proprietor will now be covered if they are employees. Prior to January 1, 1994, Section 2(2)(d) of the *Act* excluded them. This means that many businesses may now have to register with the Board that did not previously have to.

Spouses operating businesses raise similar difficulties to those discussed in Appendix A with regard to domestic workers. The family connection may make it difficult to tell whether any contract exists at all and, if there is a contract, whether it is akin to a partnership or one of employment. There may therefore be a lack of predictability as to whether a business is required to register or whether the earnings of a spouse or child should be included in payroll.

Spouses in these businesses have been exempted but not children. It will in most cases be reasonable to assume that spouses have an equal role in managing a business. The same may not be reasonable where children are involved. Children are more likely to be employed as workers without having a say in the management. They are less likely to have a free choice as to their situation. Adoption of the exemption will not prevent an individual employer from showing that a child is in fact an independent operator rather than a worker.

Spouses who are exempt will be able to request voluntary coverage. It may be unclear in some situations whether a request is made by a spouse who is an independent operator or a spouse who is a worker. The former will be a request for personal optional protection under Section 2(2) and the latter a request to be excluded from the general exemption order. It is important to distinguish the two situations because the coverage is different. The applicant specifies the earnings to be covered under Section 2(2). The applicant for exclusion from an exemption order has no choice. Their actual earnings must be used.

As a matter of practice, the general assumption in considering requests for voluntary coverage will be that one spouse is an independent operator and the other an exempt employee. This assumption reflects Assessment Department experience. It has been found that there will usually be one spouse playing a dominant role in a business and that it will normally be apparent who this is. If a situation occurs where the two spouses are clearly equal partners, both will be able to apply under Section 2(2).

Appendix C — Non-Residents

Some non-resident workers and employers are excluded from coverage under the *Act* as a matter of constitutional law, for example, non-resident air line flight crews who work in the province for short periods (See Policy No. 20:20:31 of the *Assessment Policy Manual*.) This position is not changed by *Bill 63*.

Prior to January 1, 1994, Section 2(2)(e) of the *Act* also specifically excluded “employers with no place of business in the Province who temporarily carry on business in the Province but do not employ a worker resident in the Province.” Existing Policy No. 20:30:40 determines when non-resident workers and employers who temporarily enter the province fall within the scope of this provision.

Though Section 2(2)(e) has been repealed, *Bill 63* limits coverage to workers and employers “in British Columbia.” This raises issues as to when coverage should commence for non-resident employers and workers entering the province. The same concerns arise as to predictability and the Board’s ability to effectively administer compensation and safety and health coverage as are discussed in Appendix A in regard to domestic workers.

Employers now covered by Policy No. 20:30:40 be exempted under *Bill 63*. The policy reflects the Board’s experience as to what is a practicable and reasonable solution to the question where to draw the line between coverage and non-coverage. The industries affected are aware of and accustomed to these policies. The employers in question will usually have compensation coverage for their employees in another jurisdiction. To cover the few situations where they do not have coverage, it is proposed that the existing policy be modified to specifically require this.

Appendix D — Professional Sports Competitors

Professional sports competitors are often independent contractors. Independent contractors are only covered if they have personal optional protection under Section 2(2) of the *Act* (formerly Section 3(3)). The practice is to refuse coverage for these persons.

Where a sports competitor is a worker, Section 2(2)(b) of the *Act*, as it was before January 1, 1994, excluded “players, performers and similar artists” from coverage. This exclusion is removed by *Bill 63*.

Reasons for Proposed Exemption

There will be an exemption for professional sports competitors. The reasons are discussed below. They involve an analysis of the circumstances of sports competitors in light of the purpose and intent of the *Act* and the principles discussed in paragraph 1 of the resolution.

Prevention of injuries and diseases.

The aim of most industries the Board regulates is to produce a product or service. There may be normal ways of carrying out the production, but there is no intrinsic requirement for a particular method. This allows scope for regulation. The Board can prescribe requirements for the method used without affecting the aim of the business.

The situation differs in sports. There is no discretion as to the method. Sports are governed by rules prescribing how they are played. The rules often involve violence or other risks as an essential part of the sport’s normal conduct. The risk is part of the product marketed to the public. Outside the sport, the actions in question might be inappropriate or unlawful. To regulate a sport, it would be necessary to eliminate or minimize the risks by changing the rules. This would change the method of play and therefore the game itself.

Some presently covered occupations inherently involve risks, e.g. police, firefighters. However, the object is always to minimize the risk. High-risk activities, such as using force to arrest an offender, are a last resort. They are not an essential feature that occurs whenever work is done. The Board could regulate the manner in which these activities are done without changing the aim.

There are industries now covered for compensation purposes that the Board does not regulate for safety and health purposes, e.g. mines, but there is normally some other governing body which regulates them.

Compensation is paid for earnings losses resulting from injuries and diseases up to the maximum wage rate, medical expenses are reimbursed and rehabilitation is provided.

The maximum wage rate will result in highly paid sports competitors being significantly under-compensated for injuries. These workers will likely prefer to rely on their right to sue or alternative disability insurance. However, the *Act* now covers high-paid workers, for example, corporate executives. Not all professional sports competitors receive unusually high wages. It may only be a minority that do so.

Many professional sports competitors retire at an early age. There is concern this will result in compensation for losses really due to the normal aging process. However, the problem also exists for other workers now covered. This factor may point to a review of pensions policy rather than granting of an exemption.

Coverage is limited to employment relationships and activities. Domestic, family or other non-work relationships or activities are excluded.

Sports competitors may often be independent operators rather than workers.

Sports are primarily done for personal enjoyment outside of work. They are one of many non-work activities the *Act* does not normally cover. There may be a fine line between sports as recreation and sports as a profession. Persons who are essentially amateur may receive prize money for winning competitions. Professionals may only do a sport part time. However, many other activities done in personal life, for example, cooking or house maintenance, are also done by workers in businesses. The same fine line may exist between amateurs and professionals.

The main object of sports may be to win competitions or achieve personal thrill or excellence, not to produce a good or service. There may be an element of competition or personal achievement in other occupations, but the normal object is to make money. However, money is often a significant motivation for sports competitors.

Compensation is no fault and is in lieu of right to sue.

Highly paid sports competitors will not only have significant limits on their compensation imposed by the maximum wage but they will lose their right to sue.

Compensation should be a cost of production for the products and services marketed by the employer, not a charge on the taxpayer.

There would seem to be no difficulty in applying this principle to sports. Highly paid sports competitors are not likely in any event to become a charge on the tax payer.

Collective liability of classes of employers for compensation and other costs of the system.

There would seem to be no difficulty in applying this principle to sports.

The high wages earned by some sports competitors is a concern under several headings. This by itself is a difficult ground for granting an exemption. The same concern would apply to other occupations that are now covered. The principle that really appears to warrant a different treatment from other occupations is the inability of the Board to regulate sports. This may be supported by the difficulty of distinguishing between amateurs, professionals, independent contractors and workers. As these grounds affect all sports, a general exemption is being made.

A more limited exemption was previously proposed for the sports and entertainment industries “where a high level of risk is an accepted and essential element.” There are difficulties with this proposal. What sort of risk is it referring to? Is it limited to a risk of direct physical injury as in boxing or ice hockey? Sports such as baseball might involve no risk in this sense but pitchers may suffer a high level of risk of repetitive strain injury. Sports may be risky for players in some positions but not in others. The previous proposal could result in distinctions being drawn between sports which appear arbitrary and inconsistent and would promote controversy.

Quebec is the only other Board with compensation and safety and health jurisdiction. It covered professional sports for a time. This coverage was ended for the reasons below:

- High risk of injury.
- Players earn high salaries and do not need or want coverage.
- The teams have alternative disability plans. Claims simply involved an exchange of paper. The teams continued salary and the Board partially reimbursed them.
- The Board could not apply its prevention legislation. There is a separate safety organization for sport.

Entertainment Industry

Sports may be seen as a sub-group of the entertainment industry. Some of the reasons for considering an exclusion for sports apply to other entertainment occupations, for example, dancers. An exemption for the non-sports entertainment industry might legitimately be considered. However, the grounds that justify a general exemption for

sports are not so widespread in the entertainment industries. There would be more ability for the Board to regulate without changing the activity and there is less concern with distinguishing between worker and non-worker relationships.

What is “Sports”?

If the exemption is confined to sports, it becomes necessary to distinguish sports from other entertainment occupations. It appears that sports have three basic elements:

- physical activity;
- the existence of rules governing how the sport is played; and
- competition, whether among teams or individuals.

Since these elements may also exist for non-sports activities, they may not provide an exclusive definition. Generally, the activities that are covered by the term “sports” are well known and are not likely to be disputed.

A guide to the scope of the proposed exemption can be obtained from the description of the occupation “athletes” in the “National Occupational Classification” (1992 Edition):

Athletes compete in competitive sports events on an amateur or professional basis. They play team sports such as hockey, baseball, football and lacrosse, or compete in individual sports such as skiing, figure skating, boxing or track and field. Athletes are employed by professional team organizations or they may be self employed.

Examples of titles classified in this group:

Athlete	Hockey Player
Baseball Player	Jockey
Boxer	Professional Athlete
Figure Skater	Skier
Football Player	Sprinter
Golfer	Track Athlete
Harness Race Driver	

The persons listed here will all fall within the proposed exemption where they are professional and employees but the list is not an exclusive one.

Non-Competing Employees of Sports Teams

The exemption will not affect non-competing employees of sports teams, for example, coaches and office staff. They will be compulsorily covered. Some persons may be a professional sports competitor part time and work at other jobs such as coach or office worker for the same employer the rest of the time. The time spent in the other jobs will be covered. However, the proposed exemption is not limited to the actual competitive playing of the sport. It also applies to necessarily incidental activities, for example, training, attending practices, travelling to games and after game assessments.

Voluntary Coverage

Because the major reason for exempting sports competitors is the Board's inability to regulate safety and health, it would seem inappropriate for the Board to grant voluntary coverage by varying the general exemption order.

REPORTER

Decision of the Governors

Number: 61

Date: February 7, 1994

Subject: Relief of Costs Under Section 47(3) for Employers to Whom Mandatory Coverage Was Extended as a Result of January 1, 1994 Amendments

WHEREAS:

- A. as a result of amendments to the *Workers Compensation Act* that came into force on January 1, 1994, mandatory coverage under Part One of the *Act* has been extended to employers and workers to whom it did not previously apply;
- B. Section 47(2) provides that an employer who refuses or neglects to make or transmit a payroll return or other statement required to be furnished by the employer, or who refuses or neglects to pay an assessment shall, in addition to any penalty or other liability to which the employer may be subject, pay to the W.C.B. the full amount or capitalized value of the compensation payable in respect of any injury or occupational disease to a worker in its employ which happens during the period of default;
- C. Section 47(3) provides that the W.C.B., if satisfied that the default was excusable, may relieve the employer in whole or in part from a penalty or liability under Section 47(2); and
- D. some employers to whom mandatory coverage has been newly extended on January 1, 1994 may not be aware of the requirement to register with the W.C.B. and pay assessments as of that date:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

- 1. in exercising its authority under Section 47(3) of the *Workers Compensation Act*, the W.C.B. shall, in regard to an employer to whom mandatory coverage was newly extended on January 1, 1994, relieve the employer in whole from liability under Section 47(2) unless the W.C.B. is satisfied that the employer deliberately failed to register,

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2. this basis for granting relief under Section 47(3) shall apply from January 1, 1994 to June 30, 1994 inclusive, and
 3. this resolution is a policy decision of the governors' of the Workers' Compensation Board.

Decision of the Governors

Number: 62
Date: February 7, 1994
Subject: Cost Allocation of Section 19 Repeals

WHEREAS:

- A. the *Workers Compensation Amendment Act, 1993*:
 1. repealed Section 19(1) and (2) of the *Workers Compensation Act*, thereby removing the provision for termination, upon remarriage or formation of a common-law relationship, of spousal dependant benefits being paid in respect of a death on or after July 1, 1974,
 2. reinstated spousal dependant benefits that had been terminated under Section 19(1) for remarrying or forming a common-law relationship on or after April 17, 1985, and
 3. provided for the payment of retroactive benefits, plus interest;
- B. the costs of implementing these changes consist of retroactive payments, plus interest, re-creating reserves for terminated pensions and increasing reserves for existing pensions to reflect removal of the remarriage factor;
- C. these costs must be allocated to employer subclasses and a method selected for doing so;
- D. the president and Senior Executive Committee have presented a recommendation, supported by the W.C.B. Actuary and the External Consulting Actuary, as to how this should be done:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. they approve the recommendation of the president and Senior Executive Committee that the "pooling method" described in the attached Executive Committee Submission dated January 18, 1994, be used to allocate the costs of repealing Section 19(1) and (2) of the *Act* to employer subclasses, and

-
- 2. they direct that, if Section 19(4) is repealed in the future, the same method be used to allocate the costs of the repeal to employer subclasses.

Executive Committee Submission
January 18, 1994
Section 19 — Allocation of Costs

Sponsor: Sid Fattedad

Reason for Submission

Discussion and recommendation of the most appropriate methodology to allocate the costs arising from the repeal of subsections of Section 19 of the *Act*, to employers by subclass.

Background/History

The repeal of Section 19(1), (2) (and potentially (4)) in *Bill 63*, will result in a one-time charge of approximately \$115 million, for both the retroactive and the prospective costs of reinstating spouses' pensions. These one-time costs must be allocated to subclasses.

Three options for the allocation of such costs have been identified and these are:

Option 1 — Allocation to all subclasses based on assessments

Section 39(1)(d) of the *Act* provides a reserve to be used to meet unexpected disaster costs or other circumstances which the Board considers would unfairly burden employers in a subclass. This method effectively charges all subclasses based on their proportion of assessments.

Option 2 — Direct allocation to subclasses in which the pensions arose

This option might appear to be a rational approach, however, spousal pensions involved in the repeal of Section 19, have already been previously charged to the subclasses giving rise to them. When these spousal pensions were subsequently cancelled under Section 19 conditions (remarriage etc.), the resultant reduction of the pension reserves were credited to all subclasses using the pooling method. The pooling method allocates costs or credits on the basis of ten-year averages of capitalized values of pension awards in each subclass.

Option 3 — Pooling method

This method allocates the costs to subclasses based on ten-year averages of capitalized values of pension awards by subclass. It has the effect of most closely restating the subclass charges to what they would have been, had Section 19 not existed.

Explanation of the “Pooling” Method

At the end of each year, the actuaries determine a “net cost” adjustment in each subclass. This net cost adjustment takes into account the actuarial liability of the subclass at the beginning of the year, plus interest income and capitalized values of pensions awarded in the year, less payments made during the year and less the actuarial liability at year end. This net cost adjustment is then allocated to subclasses on the basis of the ten-year average of the capitalized values of pension awards charged to each subclass.

The reinstatement of spousal pensions will result in two types of benefit costs/liability increases: (1) reinstatement of previously terminated spousal pensions and (2) increase in existing pensions using new present value factors. The previous present value factors were based on the assumption that a certain percentage (experience based) of surviving spouses either remarry or enter into a common-law relationship. The new tables will not reflect this previous discount.

Pension awards are established on an individual basis in the Pension Management System upon entitlement. Once established, this award amount basically remains constant and consists of retroactive payments including interest, plus the estimated liability for future monthly payments as of the award date.

At each year-end, the actuaries determine the survivor benefit liabilities based on the active pensions (i.e. where payments are being made) and on the suspended pensions (i.e. for temporary suspensions for incarceration, under investigation, advances given, address unknown, etc.). Inactive pensions are excluded from the benefit liability calculation. Inactive pensions include those terminated for death, cancellation (entitlement revoked), cash awards, and (previously) spousal remarriages/common-law relationships.

Although a calculation will be made for each reinstated spousal pension to reflect the changes resulting from repeal of Section 19, these adjustments will not be reflected on the Employer Claims Cost Statement. Our practice in past years has been to allocate any adjustments such as gains arising from decease of pensioner or survivor, remarriage etc., back to subclasses on a pooled basis.

No Policy/Legislative Implications

Recommendation

It is our opinion that Option 3 is the most appropriate method to allocate the costs of repeal of Section 19 to subclasses. This recommendation is supported by Actuary,

Mr. Keith Younie as well as the Board’s Consulting Actuary, Mr. Jack Levi.

TO: Sid Fattedad, Vice-President, Financial Division

FROM: Stan Warawa, Actuarial Department

DATE: December 20, 1993

SUBJECT: Update of *Bill 63* Amendment of Section 19 Cost Estimate and Allocation of Costs

The following table shows the Actuarial Department's latest estimate of the cost of the *Bill 63* amendment of Section 19, estimated as of December 20, 1993.

I should emphasize that these costs are still estimates and are subject to change in the future, since the final costs for reinstated pensions have not yet been completely calculated by Disability Awards. Furthermore the split of the costs for the non-terminated pensions between those widowed before and after July 1, 1974 has been approximated based on the claim number (year of injury) and not on exact data. This approximation may tend to slightly overstate the costs for non-terminated pensions allocated to those widowed before July 1, 1974, since some of the workers may have died some time subsequent to their injury.

1993 Cost in 000's (estimated at December 20, 1993)

Surviving Spouse Category	Reinstated Pensions (previously terminated for remarriage; based on 266 reinstatements)		Non-terminated Pensions (elimination of remarriage contingency)	Total
	Retroactive Payments (incl. interest)	Future Reserve	Future Reserve	
Widowed before July 1, 1974	1,621.1	10,610.0	2,453.2	14,684.3
Widowed after July 1, 1974	6,725.6	58,516.6	31,657.0	96,899.2
Total	8,346.7	69,126.6	34,110.2	111,583.5

The preceding 1993 costs do not make allowance for the change in the valuation discount rate from $2\frac{3}{8}\%$ to 3% nor for the provision for mortality improvement over the assumptions used during 1993, since both of these changes are effective January 1, 1994. The change in the discount rate would reduce the above \$112 million by about \$7 million while the change in mortality basis would add about \$2 million.

The above \$112 million estimate is about \$6 million less than the comparable \$118 million estimate made on September 30, 1993 primarily due to the replacement of some of the estimated pensioner data with actual data as determined by Disability Awards.

The attached pages show the allocation of the above cost estimate by subclass using the allocation procedure (the "pooled model") which was recommended.

Bill 63 — Repeal of Section 19

Subclass	Proportion of <i>Bill 63</i> Costs Allocated to Subclass	Estimated Allocated Costs Re Spouses Widowed Prior to July 1, 1974 (000's)	Estimated Allocated Costs Re Spouses Widowed After July 1, 1974 (000's)	Estimated Total Allocated Costs (000's)
102	19.427%	2,852.7	18,824.4	21,677.0
104	2.227%	327.0	2,158.1	2,485.2
105	3.578%	525.4	3,467.1	3,992.6
107	0.587%	86.2	568.8	655.0
109	0.582%	85.5	564.0	649.5
403	0.488%	71.7	473.0	544.6
411	7.488%	1,099.6	7,255.9	8,355.4
418	1.366%	200.7	1,324.1	1,524.7
430	1.653%	242.7	1,601.8	1,844.6
602	0.939%	137.8	909.5	1,047.3
603	0.368%	54.0	356.6	410.7
604	0.555%	81.5	537.8	619.2
605	0.000%	0.0	0.0	0.0
608	0.205%	30.1	198.7	228.9
617	0.001%	0.2	1.2	1.4
618	0.226%	33.2	219.3	252.6
620	0.088%	12.9	85.4	98.3
621	0.982%	144.2	951.3	1,095.5
622	1.021%	150.0	989.7	1,139.7
624	0.000%	0.0	0.0	0.0
625	0.000%	0.0	0.0	0.0
626	0.403%	59.2	390.7	449.9
627	0.365%	53.6	353.8	407.4
631	0.000%	0.0	0.0	0.0

Subclass	Proportion of <i>Bill 63</i> Costs Allocated to Subclass	Estimated Allocated Costs Re Spouses Widowed Prior to July 1, 1974 (000's)	Estimated Allocated Costs Re Spouses Widowed After July 1, 1974 (000's)	Estimated Total Allocated Costs (000's)
632	0.295%	43.4	286.1	329.5
636	0.396%	58.2	384.1	442.3
637	0.000%	0.0	0.0	0.0
639	0.181%	26.6	175.6	202.2
643	1.801%	264.4	1,744.9	2,009.3
646	0.000%	0.0	0.0	0.0
654	1.571%	230.7	1,522.2	1,752.9
656	0.199%	29.3	193.1	222.4
657	0.801%	117.7	776.6	894.3
658	0.042%	6.1	40.2	46.3
659	1.479%	217.1	1,432.8	1,649.9
705	0.980%	143.9	949.6	1,093.5
706	6.673%	979.9	6,466.4	7,446.3
707	4.917%	722.0	4,764.5	5,486.5
711	1.123%	164.9	1,087.9	1,252.8
713	0.041%	6.0	39.5	45.5
721	1.122%	164.7	1,086.8	1,251.5
725	1.697%	249.1	1,643.9	1,893.1
726	4.297%	631.1	4,164.2	4,795.3
747	0.405%	59.5	392.5	452.0
748	1.381%	202.8	1,338.5	1,541.3
801	0.811%	119.1	785.8	904.9
808	0.000%	0.0	0.0	0.0
811	0.080%	11.7	77.3	89.1
812	0.271%	39.7	262.2	302.0
820	1.824%	267.8	1,767.0	2,034.7

Subclass	Proportion of <i>Bill 63</i> Costs Allocated to Subclass	Estimated Allocated Costs Re Spouses Widowed Prior to July 1, 1974 (000's)	Estimated Allocated Costs Re Spouses Widowed After July 1, 1974 (000's)	Estimated Total Allocated Costs (000's)
823	1.950%	286.3	1,889.6	2,175.9
851	5.686%	834.9	5,509.6	6,344.6
901	0.999%	146.7	968.3	1,115.1
902	0.889%	130.5	861.1	991.6
906	0.057%	8.4	55.6	64.0
909	0.000%	0.0	0.0	0.0
911	4.508%	662.0	4,368.3	5,030.3
1001	0.111%	16.3	107.7	124.0
1002	0.000%	0.0	0.0	0.0
1006	0.847%	124.4	820.8	945.2
1009	0.000%	0.0	0.0	0.0
1012	0.167%	24.6	162.0	186.6
1013	0.000%	0.0	0.0	0.0
1014	0.000%	0.0	0.0	0.0
1200	0.395%	58.0	383.0	441.1
1201	0.000%	0.0	0.0	0.0
1202	0.000%	0.0	0.0	0.0
1301	0.010%	1.5	10.0	11.5
1302	1.758%	258.2	1,703.5	1,961.7
1304	0.000%	0.0	0.0	0.0
1305	0.000%	0.0	0.0	0.0
1310	0.501%	73.6	485.4	559.0
1312	0.000%	0.0	0.0	0.0
1313	0.000%	0.0	0.0	0.0
1315	0.000%	0.0	0.0	0.0
1316	0.000%	0.0	0.0	0.0

Subclass	Proportion of <i>Bill 63</i> Costs Allocated to Subclass	Estimated Allocated Costs Re Spouses Widowed Prior to July 1, 1974 (000's)	Estimated Allocated Costs Re Spouses Widowed After July 1, 1974 (000's)	Estimated Total Allocated Costs (000's)
1317	0.099%	14.6	96.1	110.6
1318	0.000%	0.0	0.0	0.0
1319	0.000%	0.0	0.0	0.0
1320	0.056%	8.2	54.4	62.6
1321	0.000%	0.0	0.0	0.0
1322	0.000%	0.0	0.0	0.0
1324	0.000%	0.0	0.0	0.0
1325	0.053%	7.8	51.5	59.3
1401	1.605%	235.6	1,555.0	1,790.6
1406	0.154%	22.7	149.6	172.3
1800	0.000%	0.0	0.0	0.0
3800	0.000%	0.0	0.0	0.0
3801	0.000%	0.0	0.0	0.0
3802	0.000%	0.0	0.0	0.0
9802	4.962%	728.6	4,808.0	5,536.6
9803	0.254%	37.4	246.6	284.0
TOTAL	100.000%	14,684.3	96,899.2	111,583.5

REPORTER

Decision of the Governors

Number: 63
Date: April 11, 1994
Subject: Amendments to Governors' Financial Standing Committee Charter

WHEREAS:

- A. 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 adopted the Governors' Financial Standing Committee Charter (the "Charter"); and
- B. the Committee has recommended certain amendments to the Charter to bring it into conformity with the mandate and practice of the Committee:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

the Governors' Financial Standing Committee Charter shall be amended as follows:

- 1. under the heading MISSION STATEMENT, "and management" is added after the word "executive,"
- 2. under the heading RESPONSIBILITIES, paragraph 3e is struck out and the following substituted:
 - "e. executive and management compensation", and
- 3. under the heading RESPONSIBILITIES, the following is struck out from paragraph 5:
 - 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.

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 and management 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’ Financial 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.
3. A quorum of the Governors’ Financial 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.

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- 3A. The worker representative governor or the employer representative governor, appointed under paragraph 1, may designate an alternate governor from the same representative group to attend a meeting that the worker representative governor or the employer representative governor is unable to attend; and the alternate governor, if in attendance at that meeting, shall be counted as part of the quorum for the meeting.
 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;

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- 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;
 - 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 and management compensation;
 - 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 the Committee 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 co-ordination 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.

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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.
 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;
 - 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 without management present, to discuss any matters.
 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, and amended on July 19th, 1993, and April 11, 1994.



REPORTER

Decision of the Governors

Number: 64

Date: April 11, 1994

Subject: Change of Name of "Industrial" Diseases Standing Committee and Change of References to "Industrial" Diseases

WHEREAS:

- A. on April 6, 1992, the governors constituted the Industrial Diseases Standing Committee, pursuant to Section 81(b)(i) of the *Workers Compensation Act*, to review the industrial diseases policies of the Workers' Compensation Board and to make recommendations for change to the governors;
- B. the term "industrial" in relation to diseases and injuries experienced by workers in the 1990s is arguably outdated and non-descriptive; and
- C. the more modern term for "industrial disease" is "occupational disease":

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

- 1. the Industrial Diseases Standing Committee shall be renamed the Occupational Diseases Standing Committee and the Committee's Charter amended accordingly, and
- 2. the INDUSTRIAL DISEASES STANDING COMMITTEE CHARTER shall be amended by striking out the words "industrial disease" or "industrial diseases" wherever they appear and replacing them with "occupational disease" or "occupational diseases."

OCCUPATIONAL DISEASES STANDING COMMITTEE CHARTER WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA

This Charter states the mission, role, structure and responsibilities of the “Occupational 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 Occupational Diseases Standing Committee is to review the occupational 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 occupational diseases by regulation of general application.

It is not a responsibility of the Occupational 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 representatives, two employer representatives and one public interest representative governor and the chairman of the governors to serve as the Occupational Diseases Standing Committee. The Committee shall be chaired by the chairman of the governors.
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 Occupational 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.

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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 occupational 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* 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, and
 - (ii) completely review the list of diseases designated or recognized by the W.C.B. as occupational 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.

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- 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 occupational 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 Occupational 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, and amended on April 11th, 1994.

REPORTER

Decision of the Governors

Number: 65
Date: April 11, 1994
Subject: Approval of Recommendations of the Occupational Diseases Standing Committee Regarding Schedule B of the *Workers Compensation Act*

WHEREAS:

- A. the governors have constituted the Occupational Diseases Standing Committee (the "Committee"), pursuant to Section 81(b)(i) of the *Workers Compensation Act*, to review the occupational diseases policies of the Workers' Compensation Board and to make recommendations for change to the governors;
- B. in its Charter, the Committee was directed to completely review all entries currently within Schedule B of the *Workers Compensation Act* and to make recommendations to the governors for updating the Schedule; and
- C. the Committee has submitted its report and recommendations to the governors for approval:

NOW THEREFORE, ON RECOMMENDATION OF THE OCCUPATIONAL DISEASES STANDING COMMITTEE, THE GOVERNORS RESOLVE THAT:

- 1. with the exception of the six items referred to in paragraph 2, each of the diseases described in Schedule B and each of the descriptions of process or industry associated with the diseases (in the second column of Schedule B) shall be retained in their present form;
- 2. subject to the following conditions, the Committee shall undertake a further process of review (the nature of which will depend on the item under consideration) for the items numbered 3A, 5, 8, 12, 13, and 16 in Schedule B:
 - (a) the cost of the further review (that is, obtaining expert medical/scientific assessments) for each item shall not exceed \$2,000.00, and

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- (b) the principles set out in the “Protocol” adopted by the Committee and published in the *Workers’ Compensation Reporter* (9 W.C.R. 429) shall apply to the review by the Committee of any medical/scientific information that may be relevant in completing this process;
 3. expenditure of funds by the Committee to the maximum specified in paragraph 2(a) for each item is approved; and
 4. subject to approval for further funding, a similar process of review shall take place with respect to any proposals for additions to Schedule B that the Committee may decide to consider.

REPORTER

Decision of the Governors

Number: 66
Date: March 7, 1994
Subject: Extension of Appointments of Members of the Industrial Diseases Standing Committee

WHEREAS:

- A. on April 6, 1992, the governors of the Workers' Compensation Board constituted the Industrial Diseases 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);
- B. the Committee shall consist of two worker representative governors, two employer representative governors, one public interest governor, and the chairman of the governors; and
- C. the appointments of worker representative governor Stanley J. Shewaga and public interest governor Bonnie Jean Hayes to the Committee expire on April 6, 1994:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

the appointments of worker representative governor Stanley J. Shewaga and public interest governor Bonnie Jean Hayes to the Industrial Diseases Standing Committee are extended beyond April 6, 1994 to the expiry of their respective appointments as governors.



REPORTER

Decision of the Governors

Number: 67
Date: May 2, 1994
Subject: Change of Name of the Farm and Ranch Safety and Health Agency (F.A.R.S.H.A.)

WHEREAS:

- A. on April 5, 1993, the governors of the Workers' Compensation Board approved the establishment of the Farm and Ranch Safety and Health Agency (F.A.R.S.H.A.) to be governed by a Board of Directors composed of three worker representatives, three employer representatives and a neutral chair;
- B. the F.A.R.S.H.A. Board of Directors was unable to incorporate F.A.R.S.H.A. as a society under the name of Farm and Ranch Safety and Health Agency; and
- C. F.A.R.S.H.A. has been incorporated under the name of Farm and Ranch Safety and Health Association instead:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

they ratify the change of name of F.A.R.S.H.A. from the Farm and Ranch Safety Agency to the Farm and Ranch Safety and Health Association.



REPORTER

Decision of the Governors

Number: 68
Date: May 2, 1994
Subject: Approval of 1994 F.A.R.S.H.A. Funding

WHEREAS:

- A. on April 5, 1993, the governors of the Workers' Compensation Board approved the establishment of the Farm and Ranch Safety and Health Association (F.A.R.S.H.A.);
- B. funding for F.A.R.S.H.A. is to be provided by the W.C.B. through levy and assessment on the farm and ranch subclass (0643) and the annual F.A.R.S.H.A. budget is subject to the approval of the governors;
- C. due to the length of time it took to establish F.A.R.S.H.A., the F.A.R.S.H.A. Board of Directors was unable to present a 1994 budget to the governors at the beginning of 1994, and on January 10, 1994, the governors approved an interim advance of \$150,000 from the 1994 F.A.R.S.H.A. budget to keep F.A.R.S.H.A. operating; and
- D. the chair of the F.A.R.S.H.A. Board of Directors has requested approval from the governors for a total F.A.R.S.H.A. budget of \$353,900 for the period January 1, 1994 to December 31, 1994, consisting of \$50,000 from the interim advance approved on January 10, 1994 and \$303,900 for the period May 2, 1994 to December 31, 1994:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

they approve a total F.A.R.S.H.A. budget for the period January 1, 1994 to December 31, 1994 of \$353,900 consisting of:

- 1. \$50,000 from the interim advance of \$150,000 approved on January 10, 1994, and
- 2. \$303,900 as set out in the F.A.R.S.H.A. Budget for May 1994 to December 31, 1994 attached to this resolution and initialled by the chairman of the governors.

F.A.R.S.H.A. Budget for May 1994 to December 31, 1994

Manager Salary	\$ 40,000
Secretary Salary	24,000
Office Rent	12,000
Travel	24,000
Utilities	3,200
Supplies	1,600
Promotion and Advertising	19,600
F.A.R.S.H.A. Board Meeting Costs	24,500
Project Costs	100,000
Relocation Costs	<u>15,000</u>
Total Expenses	263,900
(Not including Depreciation)	
Capital Startup Expenditures	
Equipping the Office	<u>40,000</u>
Total Expenditures	<u><u>\$303,900</u></u>

F.A.R.S.H.A. Budget for May to December 31, 1994

1. Manager's salary — \$50,000 per annum — eight months salary, including 20% benefits
2. Secretary's salary — \$30,000 per annum — eight months salary, including 20% benefits
3. Office rent estimated at \$1,500 per month for eight months
4. Manager's travel — \$3,000 per month for eight months
5. Utilities — \$400 per month — includes telephone and hydro
6. Supplies — estimate includes discretionary amount for photocopying
7. Three newsletters or material distribution at \$5,200 per distribution
Advertising — two advertisements at \$2,000 each
8. Meeting costs — estimate \$3,500 per meeting
9. Six projects: 3 at \$10,000
 3 at \$15,000
 1 at \$25,000

(Includes salary, expenses and materials for projects.)

Sample projects:

Train-the-Trainer courses

Informational materials — printed, videos, etc.

Presentations/Workshops on specific topics (e.g., tractor safety) at agriculture meetings

Student projects on individual problems (e.g., machine guarding)

Publication of collections of M.S.D.S.

Farmworker information program through community groups

Translation of brochures

10. Relocation costs — \$15,000



Decision of the Governors

Number: 69
Date: May 2, 1994
Subject: Amendment to Bylaw No. 2 — Statement of Roles and Responsibilities of the Voting Governors of the Workers' Compensation Board

WHEREAS:

- A. on October 7, 1991, the governors of the Workers' Compensation Board enacted Bylaw No. 2 — Statement of Roles and Responsibilities of the Voting Governors of the Workers' Compensation Board;
- B. the Statement sets out the common expression of the roles and responsibilities to which the governors subscribe and includes standards by which the governors shall conduct themselves during their appointments as governors and standards for post-appointment conduct; and
- C. the governors have concluded that the standards for post-appointment conduct should be expanded to prohibit a governor from serving as an employee of, or entering into a contract for services with, the W.C.B. for a period of three months following the end of his or her appointment as governor, except in cases of emergency and then only as an interim measure:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

Bylaw No. 2 — Statement of Roles and Responsibilities of the Voting Governors of the Workers' Compensation Board shall be amended by adding the following paragraph at the end of Section 7 Post-Appointment Conduct:

Except in cases of emergency and then only as an interim measure, a Governor shall not serve as an employee of, or enter into a contract for services with, the W.C.B. for a period of 3 months following the end of his or her appointment as Governor. Nor shall a Governor seek employment with, or enter into negotiations for a contract for services with, the W.C.B. during that period.



REPORTER

Decision of the Governors

Number: 70

Date: May 2, 1994

Subject: Approval of Land Acquisition and Disposal Policy

WHEREAS:

- A. Section 82(b)(ii) provides that the governors may authorize the Workers' Compensation Board to acquire and dispose of land and buildings; and
- B. the president and Senior Executive Committee have recommended a policy to the governors which sets out an efficient and cost effective method of acquiring and disposing of land and buildings in accordance with the highest ethical standards and the governors' statutory responsibilities:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

they approve the policy for the acquisition and disposal of land and buildings recommended by the president and Senior Executive Committee, a copy of which is attached to this resolution and initialled by the chairman of the governors.

Administration Policies and Procedures

POLICY: **LAND ACQUISITION AND
DISPOSAL**

Page: 1 of 4
Section:
Issue Date:

To ensure that land acquisition by the W.C.B. is undertaken, processed and completed in an efficient and cost effective manner in accordance with the highest standard of ethics, land and building acquisitions shall be conducted pursuant to the following policies and procedures:

1. The Executive Committee will review and approve the proposal to acquire land/buildings on the basis of a report from the client department. The report will include all approximate costs and the desired location of the land/building to be acquired together with estimated timelines. The Executive Committee will obtain necessary approval from the governors pursuant to Section 82(b)(ii) of the *Workers Compensation Act*.
2. The Facilities Department will conduct a site search to determine acquisition possibilities. The site search may be conducted either in-house or through licenced realtors.
3. The Facilities Department will report to the Executive Committee on identified locations and approximate costs. The Executive Committee will review and grant approval to make an Offer to Purchase on a property based on the report findings and recommendations.
4. Pursuant to the terms of the Executive Committee approval, the Legal Department and the Facilities Department will prepare and present an Offer to Purchase the identified property and may use an independent corporation set up by legal counsel for this purpose. If an independent corporation is so used the necessary documents will be executed by the Legal Department to enable the assignment of the Contract of Purchase and Sale from the independent corporation to the W.C.B.
5. Upon acceptance of the Offer to Purchase by the owner the Facilities Department will coordinate with the Legal Department to complete the purchase.

Administration Policies and Procedures

POLICY: LAND ACQUISITION AND DISPOSAL	Page: 2 of 4 Section: Issue Date:
<p>6. Any agent such as a licenced realtor retained according to the above policies and procedures will be governed by the Board’s Code of Conduct policy, the Code of Professional Conduct relevant to their profession and, without limiting the generality of the foregoing, will declare in writing upon engagement by the Board, the particulars of any conflict of interest, real, apparent or perceived. The agent will be required to agree in writing that they are bound by and will adhere to these requirements as a condition of being hired.</p>	

Administration Policies and Procedures

POLICY: **LAND ACQUISITION AND
DISPOSAL**

Page: 3 of 4
Section:
Issue Date:

To ensure that land disposal by the W.C.B. is undertaken, processed and completed in an efficient and cost effective manner in accordance with the highest standard of ethics, land and building disposals shall be conducted pursuant to the following policies and procedures:

1. The Facilities Department, working with the client department, will identify the land/building which is surplus to the needs of the W.C.B.
2. The Facilities Department, working with the Treasury Department, will obtain an appraisal indicating the current market value of the property.
3. The Facilities Department will present a report to the Executive Committee recommending the sale of the property at an asking price based on the current market value of the property.
4. The Executive Committee will review the report, seek approval of the governors pursuant to Section 82(b)(ii) of the *Workers Compensation Act* and approve the sale and the asking price.
5. The Facilities Department, working with licenced realtors, will offer the property for sale through the Multiple Listing Service or other public means.
6. When an offer to purchase the property is received, the Facilities Department will report to the Executive Committee with a recommendation to either accept or provide a counter-offer.
7. The Executive Committee will review the offer and Facilities' Report and make a decision on the offer.
8. Upon acceptance of the Offer to Purchase the Facilities Department will coordinate with the Legal Department to complete the sale of the property.

Administration Policies and Procedures

POLICY: LAND ACQUISITION AND DISPOSAL	Page: 4 of 4 Section: Issue Date:
<p>9. Any agent such as a licenced realtor retained according to the above policies and procedures will be governed by the Board’s Code of Conduct policy, the Code of Professional Conduct relevant to their profession and, without limiting the generality of the foregoing, will declare in writing upon engagement by the Board, the particulars of any conflict of interest, real, apparent or perceived. The agent will be required to agree in writing that they are bound by and will adhere to these requirements as a condition of being hired.</p>	



REPORTER

Decision of the Governors

Number: 71

Date: July 6, 1994

Subject: Appointment of Registrar, Medical Review Panels

WHEREAS:

- A. the Medical Review Panel Department of the Workers' Compensation Board administers and processes worker and employer appeals to the independent Medical Review Panels under the *Workers Compensation Act*;
- B. the M.R.P. Department reports to the governors of the W.C.B. through the chairman; and
- C. the governors have decided to appoint a full-time registrar, Medical Review Panels, to manage and direct the operation of the M.R.P. Department, liaise with individual workers, employers and their representatives and with M.R.P. chairmen and specialist members, and interact with the workers' compensation community to identify general client service issues around the M.R.P. process and ensure their prompt resolution:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

they appoint A. Weldon Brake ("A.W.B.") to be registrar, Medical Review Panels, upon the following terms of appointment:

- 1. A.W.B. will be appointed for a term of three years effective July 6, 1994, with eligibility for reappointment or extension of his appointment at the end of the term.
- 2. A.W.B. will perform the functions and undertake the responsibilities described in the POSITION DESCRIPTION attached to this resolution and initialled by the chairman of the governors, as that POSITION DESCRIPTION may be amended from time to time by mutual agreement between A.W.B. and the chairman of the governors.

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3. During his term, A.W.B. may only be removed for “just cause,” and “just cause” does not arise in a case where A.W.B. makes a decision with which the governors do not agree with respect to an appeal.
 4. If, at any time during his term, A.W.B. is removed by the governors for other than “just cause,” his severance will be payout (salary and fringe benefits) for the balance of his term; if, at any time during his term, the position of registrar becomes redundant because of legislative change, A.W.B. will either be paid out for the balance of his term or provided with other employment at the W.C.B. of comparable responsibility and compensation.
 5. After ceasing to be registrar, A.W.B. is precluded from acting as an advocate in a proceeding under the *Workers Compensation Act*, the *Criminal Injury Compensation Act*, the *Workplace Act*, or the *Government Employees Compensation Act* for a period of 6 months for every year of service as registrar to a maximum of 18 months. This preclusion does not apply to service as a workers’ adviser or employers’ adviser. Nor does it prevent A.W.B. from continuing employment with the W.C.B. or accepting an appointment to the Workers’ Compensation Review Board or as an appeal commissioner.

POSITION DESCRIPTION
Human Resources Department

Group	Job Title
	REGISTRAR, MEDICAL REVIEW PANEL
Division	Department
BOARD OF GOVERNORS	MEDICAL REVIEW PANEL

I. FUNCTION

Reporting to the governors of the W.C.B., through the chairman, the registrar, Medical Review Panels, is responsible for managing the operation of the Medical Review Panel Department in the administration and processing of appeals to Medical Review Panels. The incumbent is responsible for 18–22 subordinates.

II. RESPONSIBILITIES

Manages and directs the operation of the M.R.P. Department, having primary responsibility for ensuring that all statutory requirements for a M.R.P. appeal are met and that all procedures and processes are duly executed in accordance with the *Workers Compensation Act* and governor policies and Departmental practices .

Establishes quality assurance mechanisms for the Department, formulates operational plans and objectives, monitors service outcome performance of operations against plans and objectives; identifies potential service outcome problems and resolves them.

Monitors and recommends amendments to M.R.P. processes, policies and procedures; reviews complaints and evaluates community concerns; monitors situations where significant client service issues have been identified and ensures their prompt resolution.

Evaluates and recommends resource requirements, including administrative budgets, staffing levels and facilities, needed to provide the support function for the Medical Review Panels; approves and presents annual administrative budget submissions and quarterly variance reports.

Hires, appraises, trains, disciplines and terminates staff as deemed necessary; ensures training programs effectively contribute to improving service delivery objectives; monitors employee career and development progression and ensures individual performance plans are in place and match Departmental goals.

Handles grievances at the appropriate level.

Conducts review of M.A.O. decisions upon request; reviews M.R.P. certificates and narratives; acts as conduit of requests for clarification of M.R.P. certificates.

Develops and maintains database of M.R.P. appeals, including issues, decisions appealed and end results; prepares statistical reports for Board of Governors; prepares annual report.

Acts as chair to the M.R.P. Chairmen's Advisory Committee and, in conjunction with the Committee, liaises with M.R.P. chairmen and specialists, conducts business meetings, coordinates biannual educational programs for chairmen, specialists and M.R.P. Department, coordinates chairmen's concerns regarding the appointment, reappointment or termination of and code of conduct for M.R.P. chairmen, and works with College of Physician and Surgeons to deal with matters of impropriety.

Represents the Medical Review Panel process in a wide variety of public speaking engagements.

Consults and liaises with management in other areas of the Board to resolve matters of mutual concern.

Undertakes a variety of special projects which may include research into selected areas, preparation/revision of procedures and methods.

Ensures a safe and secure working environment is maintained in accordance with Board policies and practices and relevant legislation.

Keeps informed of changes in M.R.P. and other workers' compensation issues by reading appropriate literature, attending meetings and conferences, consulting with stakeholder groups and other activities as appropriate.

Performs other related duties as assigned.

III. QUALIFICATIONS

A university degree in Business Management, Public Administration or applicable field and 10 years of related experience which includes 3 years of applicable management experience

OR

an equivalent combination of education and experience

REPORTER

Decision of the Governors

Number: 72
Date: July 6, 1994
Subject: Amendment to *Occupational Diseases Standing Committee Charter*

WHEREAS:

- A. on April 6, 1992, the governors constituted the Occupational Diseases Standing Committee, pursuant to Section 81(b)(i) of the *Workers Compensation Act*, to review the occupational diseases policies of the Workers' Compensation Board and to make recommendations for change to the governors;
- B. the Committee currently consists of two worker representative, two employer representative and one public interest representative governors and the chairman of the governors; and
- C. the Committee has recommended to the governors that the *Charter* be amended to include the president/C.E.O. of the Workers' Compensation Board as an ex-officio non-voting member:

NOW THEREFORE, ON RECOMMENDATION OF THE OCCUPATIONAL DISEASES STANDING COMMITTEE, THE GOVERNORS RESOLVE THAT:

the *Occupational Diseases Standing Committee Charter* shall be amended by striking out paragraph 1 under the heading STRUCTURE and substituting the following:

The Governors shall appoint two worker representative, two employer representative and one public interest representative Governors and the Chairman of the Governors to serve as the Occupational Diseases Standing Committee. The President/C.E.O. of the W.C.B. shall be an ex-officio non-voting member of the Committee. The Committee shall be chaired by the Chairman of the Governors.



Decision of the Governors

Number: 73
Date: July 6, 1994
Subject: Ratification of Medical Review Panel Fee Schedule Effective July 1, 1994

WHEREAS:

- A. 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
- B. the chairman of the governors has given final approval to the fee schedule for Medical Review Panels held on and after July 1, 1994 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 July 1, 1994:

1. the hourly rate payable to the chairmen of Medical Review Panels is \$137.30,
2. the flat fee payable to Panel members other than the chairmen is \$460.47, with an additional fee of \$101.26 per hour when the time taken on an appeal (including travelling time) exceeds 3½ hours up to a maximum of a further 4½ hours, and
3. the stenographic fee for each appeal is \$69.13.



Decision of the Governors

Number: 74

Date: August 8, 1994

Subject: Occupational Safety and Health Regulation Review:
Regulation Advisory Committee Rescindment of Appointment/
Appointment of New Member

WHEREAS:

- A. 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*;
- B. the governors have adopted a process by which this review will be conducted;
- C. this process includes the appointment of a Regulation Advisory Committee which will, under the direction of the governors, oversee the review of the Regulations;
- D. 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;
- E. the governors have appointed to the Regulation Advisory Committee seven persons representative of workers and seven persons representative of employers; and
- F. one person appointed to the Regulation Advisory Committee to be representative of employers is unable to continue with the Committee and the governors wish to appoint another person to replace him:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. The appointment of Mr. Tom Timm to the Regulation Advisory Committee as a representative of employers is rescinded.
2. Mr. Robert West-Sells, Public Works manager for the Corporation of the District of North Vancouver, is appointed as a member of the Regulation Advisory Committee to be representative of employers.
3. Mr. West-Sells shall be paid travel and other reasonable expenses and a per diem allowance of ONE HUNDRED SEVENTY-FIVE DOLLARS (\$175.00) for attendance at the Regulation Advisory Committee meetings.

Decision of the Governors

Number: 75

Date: December 1, 1994

Subject: Appeal Division Administration, Practice and Procedure

Whereas the *Workers Compensation Act*, as amended, provides:

- A. In Section 85(7)(b) that the Chief Appeal Commissioner shall implement the policies of the Governors with respect to the administration of the Appeal Division.
- B. In Section 85.1 that the Chief Appeal Commissioner may determine the practice and procedure of the Appeal Division subject to any policies of the Governors.

The governors make the following policy with respect to the administration, practice and procedure of the Appeal Division.

1.0 Scope of Proceedings Before the Appeal Division

The role of the Appeal Division is to inquire into the merits of matters properly brought before it.

In appeals commenced under Section 91, the appellant should be required to outline the reasons for the appeal explaining how the Review Board finding is in error.

In appeals commenced under Sections 96(6) and 96(6.1), the appellant should be required to outline the error of law or fact or contravention of the published policy of the governors in the decision under appeal.

The Appeal Division will adopt a procedure that ensures the issues in an appeal are identified during the course of the appeal so that all parties may understand and have an opportunity to respond.

The Appeal Division has the discretion to initiate and to conduct a full inquiry into all of the issues arising out of an appeal once the matter is before it. The Appeal Division has the discretion to determine what evidence it will accept in the course of conducting its proceedings.

The Appeal Division may seek medical opinions independent of those offered by the parties or the Board.

2.0 Representation Before the Appeal Division

The procedure of the Appeal Division shall recognize and facilitate the appearance and participation by workers and employers acting for themselves or lay advocates acting on their behalf.

Where the participation of other parties in the procedure will assist inquiry into the merits of the issues, the Appeal Division may give notice to or allow intervention by these other parties. For example, where an employer is no longer registered with the Board, the Appeal Division may give notice of an appeal commenced by a worker to the relevant industry association and the employers' advisor. Or in appeals commenced under Sections 96(6) and 96(6.1), the Appeal Division may give notice of the appeal to the workers or trade union representative of the workers employed by the employer who may have an interest in the appeal.

3.0 Panels

Matters coming before the Appeal Division shall be determined by either a one-member panel or a three-member panel, as decided by the chief appeal commissioner. In cases where an oral hearing has been granted, the chief appeal commissioner shall consider any preference expressed by a party in making this decision.

A one-member panel shall consist of either the chief appeal commissioner or a non-representational appeal commissioner selected by the chief appeal commissioner.

A three-member panel shall generally consist of either the chief appeal commissioner or a non-representational appeal commissioner who shall preside over the panel and one appeal commissioner chosen from the worker representatives and one appeal commissioner chosen from the employer representatives.

The assignment of one or more appeal commissioners to a panel in a particular case shall be made by the chief appeal commissioner.

In matters under Sections 10(8) and 11 and in exceptional cases where the chief appeal commissioner considers that the issues warrant it, the chief appeal commissioner has the authority to constitute a panel consisting of three non-representational appeal commissioners, which may include the chief appeal commissioner.

4.0 Hearings

A party in any case shall have the right to request an oral hearing, but must provide reasons why an oral hearing is necessary. The Appeal Division has the discretion to decide whether an oral hearing will be granted in any case. Parties will be notified in advance of the final decision whether an oral hearing will be held.

The Appeal Division shall give liberal consideration to the following factors in deciding whether to grant a request for an oral hearing:

- (a) there is significant new evidence to be presented which requires an oral hearing;
- (b) the appeal raises a significant policy issue;
- (c) there appears to be an error or confusion in the finding or decision under appeal;
- (d) there is evidence to suggest there is an error of fact in the finding or decision under appeal;
- (e) there is a significant issue of credibility involved.

An oral hearing may not be granted if:

- (a) there are no reasons given as to how the finding or decision under appeal is in error;
- (b) there are no reasons given for the request for an oral hearing;
- (c) there was no request for an oral hearing before the Review Board;
- (d) the issue is purely medical and the appeal can be determined on the basis of written expert medical opinions alone.

The chief appeal commissioner shall determine the extent to which oral hearings will be conducted throughout the province based on the objective that as far as is practicable and reasonable all parties should have access to appear before the Appeal Division when a request for an oral hearing has been granted.

5.0 Application of Board Policy by the Appeal Division

The Appeal Division shall apply and interpret the *Act*, Regulations and existing Board published policy. The Appeal Division does not have the authority to create new policy. The Appeal Division must make its decisions according to the merits and justice of each case as directed in Section 99.

Where the chief appeal commissioner considers it necessary that the governors address a policy issue prior to a decision being made in one or more appeals, the chief appeal commissioner has the authority to bring that policy issue before the governors for consideration and to postpone the Appeal Division's decision in the appeal until the policy issue has been addressed by the governors.

6.0 Discretionary Authority

In matters which come before it, the Appeal Division has the authority to exercise the Board's discretion to refer a worker to a Medical Review Panel pursuant to Section 58(5) of the *Act* with or without the worker's consent.

The Appeal Division may exercise its discretion pursuant to Section 91(2) to direct the Review Board to reconsider in any case where the Appeal Division considers it appropriate.

The Appeal Division has specific authority to reconsider a decision of the Appeal Division under Section 96.1.

The Appeal Division shall exercise the authority of the Board under Section 96(2) to reopen, rehear and redetermine any decision made by the former commissioners prior to June 3, 1991, where the chief appeal commissioner finds that the decision was based upon an error of law or involved or involves an issue under the *Canadian Charter of Rights and Freedoms*.

The Appeal Division shall not otherwise exercise the Board's plenary independent power to reopen, rehear and redetermine matters under Section 96(2).

7.0 Authority of the Chief Appeal Commissioner to Delegate

Under Section 85(8) of the *Act*, the chief appeal commissioner may delegate in writing any of the chief appeal commissioner's powers and duties to an appeal commissioner subject to any terms and conditions set out in the delegation.

8.0 Decisions

Decisions shall be written in plain language explaining the conclusion reached and the reasons for that conclusion.

A decision of the Appeal Division shall be signed by all members of the panel that made the decision. A dissent shall be signed by the appeal commissioner dissenting.

9.0 Publication of Appeal Division Decisions

While Section 99 provides that the Board and therefore the Appeal Division “. . . is not bound to follow legal precedent,” the publication of Appeal Division decisions can usefully assist in communicating and creating an understanding of the meaning of the *Act*, Regulations and Board policies, practices and procedures. Publication can also aid in the goal of having like cases treated alike and explaining the meaning and effect of changes in the law and policy under which the workers’ compensation system operates.

Publication further serves the useful role of holding the system publicly accountable.

These goals do not require the publication of every decision. In addition, the right of privacy of parties established in Section 95 has to be respected.

Selected decisions of the Appeal Division shall be published under the direction of the chairman with the assistance of the chief appeal commissioner to ensure that all key decisions are reported.

10.0 Governors’ Decisions No. 1 and 8

This Decision replaces governors’ Decision No. 1 dated April 11, 1991 (*Workers’ Compensation Reporter*, Vol. 7: p. 7) and governors’ Decision No. 8 dated January 6, 1992 (*Workers’ Compensation Reporter*, Vol. 7: p. 171).

THIS POLICY IS EFFECTIVE DECEMBER 1, 1994.



Decision of the Governors

Number: 76
Date: November 16, 1994
Subject: Winding Up Ad Hoc Back Schedule Committee

WHEREAS:

- A. Section 82(b)(i) of the *Workers Compensation Act* authorizes the governors of the Workers' Compensation Board to establish and give direction to committees;
- B. on November 4, 1991, the governors established the Back Schedule Committee and directed the Committee to review W.C.B. policies with respect to the assessment of permanent spinal impairment and the alternative schedules that might be adopted;
- C. the Back Schedule Committee has been inactive for approximately 18 months and its work has been suspended pending worker governor review of the scope of the issue and the definition of the concerns that gave rise to the establishment of the Committee; and
- D. other mechanisms, for example the Loss of Earnings Pension Study currently being undertaken by the W.C.B., offer an opportunity address issues relating to the back schedule and the assessment of permanent spinal impairment:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

- 1. the Back Schedule Committee established by the governors on November 4, 1991 be wound up by this resolution, and
- 2. the issues around the back schedule and the assessment of permanent spinal impairment be:
 - (a) referred to the director of Policy and Research for discussion with the Senior Executive Policy Committee as to approach and timing in the context of the other future policy issues to be decided by the governors, and
 - (b) brought before the governors in due course for decision after appropriate policy analysis and public consultation.



REPORTER

Decision of the Governors

Number: 77

Date: November 7, 1994

Subject: Revised Chapter IV — Compensation for Occupational Disease — Occupational Disease Recognition

WHEREAS:

- A. the Workers' Compensation Board pays compensation to workers with occupational diseases due to employment, in accordance with the *Workers Compensation Act* and governor policy as set out in CHAPTER IV — COMPENSATION FOR INDUSTRIAL DISEASE of the *Rehabilitation Services and Claims Manual*;
- B. after extensive public consultation with the worker and employer communities, including a public hearing in December, 1993, a completely revised CHAPTER IV has been drafted under the direction of the Governors' Occupational Diseases Standing Committee and presented to the governors for adoption;
- C. the revised CHAPTER IV, now entitled COMPENSATION FOR OCCUPATIONAL DISEASE, incorporates the change in terminology from "industrial disease" and "industrial diseases" to "occupational disease" and "occupational diseases" provided by the *Workers Compensation Amendment Act, 1994* (Bill 13) and this change in terminology should be implemented throughout the *Rehabilitation Services and Claims Manual*; and
- D. the revised CHAPTER IV contemplates the addition of 15 diseases to the list of occupational diseases recognized by regulation of the Workers' Compensation Board under Section 1 of the *Act*:

NOW THEREFORE THE GOVERNORS RESOLVE THAT THEY:

1. adopt as governor policy new CHAPTER IV — COMPENSATION FOR OCCUPATIONAL DISEASE — of the *Rehabilitation Services and Claims Manual*, identified as manual amendment proposal CM049 in the meeting

-
- binder for the November 7, 1994 meeting of the governors' of the Workers' Compensation Board, to replace existing CHAPTER IV — COMPENSATION FOR INDUSTRIAL DISEASE — of the *Manual*;
2. instruct the chairman of the governors to make, on their behalf, all non-substantive consequential changes to the *Rehabilitation Services and Claims Manual* required by the adoption of new CHAPTER IV as governor policy, including:
 - (a) deleting #13.11 Epicondylitis (Tennis Elbow)/Carpal Tunnel Syndrome from CHAPTER III — COMPENSATION FOR PERSONAL INJURY,
 - (b) incorporating the text appearing as #30.11 Assessment of Pensions for Raynaud's Phenomenon in former CHAPTER IV — COMPENSATION FOR INDUSTRIAL DISEASE — as #39.44 Assessment of Pensions for Raynaud's Phenomenon in Chapter VI — PERMANENT DISABILITY AWARDS,
 - (c) striking out the last sentence of #39.40 Sensory Losses in CHAPTER VI — PERMANENT DISABILITY AWARDS ("Awards for Raynaud's Phenomenon and hearing loss are dealt with in #30.10 and #30.20 respectively.") and replacing it with "Awards for hearing loss are dealt with in #31.00."; and
 - (d) striking out, adding or amending references to item #s to ensure correspondence with items #s in new CHAPTER IV — COMPENSATION FOR OCCUPATIONAL DISEASES;
 3. strike out "industrial disease" and "industrial diseases" wherever they appear in the *Manual* and replace them with "occupational disease," and "occupational diseases," respectively, except where "industrial disease" or "industrial diseases" appears in text discussing Federal legislation such as the *Government Employees' Compensation Act*;
 4. make, pursuant to Section 1 of the *Workers Compensation Act*, the attached Occupational Disease Recognition Regulation; and
 5. instruct the chairman of the governors to execute and forward the Occupational Disease Recognition Regulation for deposit with the registrar of Regulations;

AND THE GOVERNORS FURTHER RESOLVE THAT the amendments to the *Rehabilitation Services and Claims Manual* resulting from this resolution and the attached Occupational Disease Recognition Regulation shall be effective January 1, 1995.

**REGULATION OF THE WORKERS' COMPENSATION BOARD
DATED NOVEMBER 7, 1994.
OCCUPATIONAL DISEASE RECOGNITION REGULATION**

1. Pursuant to Section 1 of the *Workers Compensation Act*, the Workers' Compensation Board recognizes the following diseases as occupational diseases:

Bronchitis
Campylobacteriosis (Diarrhea caused by Campylobacter)
Carpal Tunnel Syndrome
Chicken Pox
Cubital Tunnel Syndrome
Disablement from Vibrations
Emphysema
Epicondylitis (Lateral and Medial)
Food Poisoning
Giardia Lamblia Infestation
Head Lice (Pediculosis Capitis)
Herpes Simplex
Infectious Hepatitis
Legionellosis
Lyme Disease
Meningitis
Mononucleosis
Mumps
Plantar Fasciitis
Radial Tunnel Syndrome
Red Measles (Rubeola)
Ringworm
Rubella
Scabies
Serum Hepatitis
Shigellosis
Staphylococci Infections
Stenosing Tenovaginitis (Trigger Finger)
Streptococci Infections
Thoracic Outlet Syndrome
Toxoplasmosis
Typhoid
Whooping Cough
Yersiniosis

2. B.C. Regulation 61/75 as amended by B.C. Regulation 523/75 is repealed.
3. This regulation is effective January 1, 1995.



REPORTER

Decision of the Governors

Number: 78
Date: October 22, 1994
Subject: Winding Up of Ad Hoc Committees

WHEREAS:

- A. Section 82(b)(i) of the *Workers Compensation Act* authorizes the governors of the Workers' Compensation Board to establish and give direction to committees;
- B. in 1990 and 1991, the governors established and gave direction to a number of ad hoc committees, including the President/C.E.O. Search Committee, the Chief Appeal Commissioner Search Committee, the Appeal Division Committee, the Appeal Commissioner Criteria Committee, the Conduct/Roles and Responsibilities Committee, the Bylaw Committee, the Referral and Interest Committee, the Back Schedule Committee, the Criminal Injury Policy Committee, the Schedule B Committee and the Silicosis and Coal Industry Surplus Committee, which completed their work and were wound up; and
- C. in some cases, there is no record of the ad hoc committee having been formally wound up:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

all committees established by the governors in 1990 and 1991 are wound up by this resolution, except the following:

Back Schedule Committee, which shall continue in existence until wound up by the governors

Criminal Injury Policy Committee, which shall be wound up by separate resolution of the governors

Governors' Committee for Regulation Review, which shall continue in existence until wound up by the governors



REPORTER

Decision of the Governors

Number: 79

Date: October 22, 1994

Subject: Winding Up of Ad Hoc Criminal Injury Policy Committee

WHEREAS:

- A. Section 82(b)(i) of the *Workers Compensation Act* authorizes the governors of the Workers' Compensation Board to establish and give direction to committees;
- B. on August 12, 1991, the governors established the Criminal Injury Policy Committee and directed the Committee to conduct a comprehensive study into the policies of the criminal injury compensation system in B.C.;
- C. on April 13, 1992, the attorney general requested that the governors suspend their policy review pending a more general review of victim assistance programs by the Ministry of the Attorney General and the governors agreed;
- D. the Ministry of the Attorney General has studied the criminal injury compensation system and is considering whether statutory amendments should be recommended to the *Criminal Injury Compensation Act* and policy changes made; and
- E. the governors have concluded that, in view of the studies conducted by the Ministry of the Attorney General and of the Ministry's broader-based knowledge of victims assistance issues generally, the governors' policy initiatives are no longer required:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

the Criminal Injury Policy Committee established by the governors on August 12, 1991, be wound up by this resolution.



REPORTER

Decision of the Governors

Number: 80

Date: October 22, 1994

Subject: Winding Up of Ad Hoc Average Earnings Committee

WHEREAS:

- A. Section 82(b)(i) of the *Workers Compensation Act* authorizes the governors of the Workers' Compensation Board to establish and give direction to committees;
- B. on February 17, 1992, at the request of the president of the day, the governors established the Average Earnings Committee to address average earnings policy issues;
- C. the Average Earnings Committee has been inactive for more than one year and it is doubtful that average earnings policy issues require priority commitment of governors' resources over other policy issues; and
- D. the governors are scheduled to consider some Average Earnings issues later this year, and the W.C.B. Policy and Research Section, in conjunction with the Average Earnings Working Group, is evaluating the remaining issues and establishing a workplan to deal with them:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

the Average Earnings Committee established by the governors on February 17, 1992, be wound up by this resolution.



Decision of the Governors

Number: 81

Date: October 3, 1994

Subject: Approval of Interest Policy Under Section 19 of the *Workers Compensation Act*

WHEREAS:

- A. effective August 19, 1993, the *Workers Compensation Amendment Act, 1993* repealed Section 19(1) and (2) of the *Workers Compensation Act* and substituted new Section 19(1), (2) and (2.1) which provided for the reinstatement of monthly benefits for dependent spouses whose benefits had been terminated under Section 19(1) because of remarriage or formation of a common law relationship on or after April 17, 1985, and for payment of a retroactive lump sum, plus interest;
- B. on September 7, 1993, the governors of the Workers' Compensation Board decided that "interest" for this purpose would be calculated at the rates and in the manner set out in #50.00 of the *Rehabilitation Services and Claims Manual*;
- C. effective August 26, 1994, the *Workers Compensation Amendment Act, 1994* repealed Section 19(4) of the *Workers Compensation Act* and amended Section 19(1) and (2) of the *Act* to also provide for reinstatement of monthly benefits for widows and former common law wives whose benefits had been terminated under Section 19(4) because of remarriage or formation of a common law relationship on or after April 17, 1985, and for payment of a retroactive lump sum, plus interest; and
- D. the governors of the W.C.B. have concluded that the "interest" policy they approved on September 7, 1993 with respect to payment of the retroactive lump sum, plus interest, to the Section 19(1) dependent spouses should also apply with respect to payment of the retroactive lump sum, plus interest, to the Section 19(4) widows and former common law wives:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

“interest” for the purposes of Section 19 of the *Workers Compensation Act*, as amended on August 26, 1994 will be calculated at the rates and in the manner set out in #50.00 of the *Rehabilitation Services and Claims Manual*.

Decision of the Governors

Number: 82
Date: October 3, 1994
Subject: Approval of Grant Application

WHEREAS:

- A. Section 71(4) of the *Workers Compensation Act* provides that the "board may engage in and carry on a general educational program for employers, employees and the general public in relation to the prevention of accidents and occupational diseases, first aid and the general operations and responsibilities of the board, and for that purpose may advertise, sponsor contests and award prizes, scholarships and other monetary awards, including rewards for bravery in rescuing or attempting to rescue a worker from serious injury or death, and may undertake or support research in matters relating to its responsibilities" under the *Act*;
- B. on October 26, 1992 the governors of the Workers' Compensation Board approved the "WORKERS COMPENSATION BOARD OF BRITISH COLUMBIA GRANTS AND AWARDS POLICY" (the "Policy") for implementation;
- C. the Policy requires that the governors approve grants and awards over \$250,000 or payable over a period longer than one year; and
- D. the president and Senior Executive Committee have presented to the governors for approval a request for a multi-year grant to an endowment fund set up by the Disabled Forestry Workers Foundation of Canada for the National Institute of Disability Management and Research:

NOW THEREFORE THE GOVERNORS RESOLVE THAT:

1. they approve a multi-year grant to the endowment fund set up by the Disabled Forestry Workers Foundation of Canada for the National Institute of Disability Management and Research to be based upon a principal of \$300,000 and paid as follows:

1994 — “interest” on the principal of \$300,000

1995 — “interest” on the principal of \$300,000

1996 — “interest” on the principal of \$300,000

1997 — the principal of \$300,000 provided there is confirmation that the Institute’s programs are utilized and the Institute is self-funding and there is positive program evaluation by the Workers’ Compensation Board, and

2. the figure to be applied to the principal for purposes of calculating the amount to be paid in each of 1994, 1995 and 1996 will be the rate of return on the Board’s investment portfolio for the immediately preceding calendar year.

Decision of the Governors

Number: 83
Date: October 3, 1994
Subject: Customs Brokers Reclassification Transfer of Industry from Class 9 to Class 33

WHEREAS:

- A. for the purpose of assessment in order to create and maintain the accident fund for the payment of compensation, outlays and expenses under the *Workers Compensation Act* and the *Workplace Act*, Section 36 of the *Act* divides all industries within the scope of Part One into classes;
- B. Section 37 of the *Act* empowers the W.C.B. to:
 - (a) create new classes in addition to those mentioned in Section 36,
 - (b) consolidate or rearrange any existing class, and
 - (c) withdraw from a class an industry or a part of a class or subclass included in it and transfer it wholly or in part to another class, or form it into a separate class,and, in doing so, the W.C.B. may make the adjustment and disposition of the funds, reserves and accounts of the classes affected that is considered just and expedient;
- C. a classification structure has been established under Sections 36 and 37 of the *Act* and is set out in the *Classification and Rate List* for each year;
- D. customs brokers are currently classified in class 9, industry group 090900;
- E. as a result of representations from the B.C. Division of the Canadian Society of Customs Brokers and investigation by the Assessment Department, the Employer Assessment Classification Committee is recommending that the classification of certain customs brokers for assessment purposes be changed; and

-
- F. the Senior Executive Committee supports the recommendation of the Employer Assessment Classification Committee with respect to the reclassification of certain customs brokers for assessment purposes:

NOW THEREFORE THE GOVERNORS RESOLVE THAT THEY:

1. accept the recommendation of the Employer Assessment Classification Committee that customs brokers who are providing no trucking, freight forwarding or warehousing be reclassified,
2. transfer the industry of customs brokers who are providing no trucking, freight forwarding or warehousing from class 9 to class 33 as industry group 330103 to be described as "Customs Brokers (where no trucking, freight forwarding or warehousing),"
3. amend the "Description of Industry Group" for industry group 090900 in class 9 to "Customs Brokers, N.E.S., International Freight Forwarders, Marine Shipping Services N.E.S.,"

AND THE GOVERNORS FURTHER RESOLVE THAT:

4. no adjustment will be made to the funds, reserves and accounts of class 9 or class 33 consequential to the transfer of certain customs brokers from class 9 to class 33, and
5. this change to the classification structure is effective January 1, 1994.

REPORTER

Decision of the Governors

Number: 84
Date: October 3, 1994
Subject: Property Management Services Reclassification Transfer of Industry from Class 6 to Class 33

WHEREAS:

- A. for the purpose of assessment in order to create and maintain the accident fund for the payment of compensation, outlays and expenses under the *Workers Compensation Act* and the *Workplace Act*, Section 36 of the *Act* divides all industries within the scope of Part One into classes;
- B. Section 37 of the *Act* empowers the W.C.B. to:
 - (a) create new classes in addition to those mentioned in Section 36,
 - (b) consolidate or rearrange any existing class, and
 - (c) withdraw from a class an industry or a part of a class or subclass included in it and transfer it wholly or in part to another class, or form it into a separate class,and, in doing so, the W.C.B. may make the adjustment and disposition of the funds, reserves and accounts of the classes affected that is considered just and expedient;
- C. a classification structure has been established under Sections 36 and 37 of the *Act* and is set out in the *Classification and Rate List* for each year;
- D. property management services are currently classified in class 6, industry group 062209;
- E. as a result of representations from an employer engaged in property management services and investigation by the Assessment Department, the Employer Assessment Classification Committee is recommending that the

classification of property management services for assessment purposes be changed for property management firms who have no direct workers engaged in the physical maintenance of clients' properties and who do not undertake contracts with contractors to maintain their clients' properties; and

- F. the Senior Executive Committee supports the recommendation of the Employer Assessment Classification Committee with respect to the reclassification of property management services for assessment purposes:

NOW THEREFORE THE GOVERNORS RESOLVE THAT THEY:

1. accept the recommendation of the Employer Assessment Classification Committee that property management firms who have no direct workers engaged in the physical maintenance of clients' properties and who do not undertake contracts with contractors to maintain their clients' properties be reclassified,
2. transfer the industry of property management services as described in paragraph 1 from class 6 to class 33 as part of industry group 330101,
3. amend the "Description of Industry Group" for industry group 330101 in class 33 to "Accountants Office, Bookkeeping Services, Income Tax Services, Property Management Services (no direct workers in physical maintenance/ no contracts to maintain clients' properties),"

AND THE GOVERNORS FURTHER RESOLVE THAT:

4. no adjustment will be made to the funds, reserves and accounts of class 6 or class 33 consequential to the transfer of property management services from class 6 to class 33, and
5. this change to the classification structure is effective January 1, 1994.

REPORTER

Decision of the Governors

Number: 85
Date: October 3, 1994
Subject: Approval of Restructuring of Subclass 0621

WHEREAS:

- A. all industries with workers and employers covered by the *Workers Compensation Act* are divided into classes and subclasses for assessment purposes;
- B. under Section 37 of the *Act*, the W.C.B. may create and rearrange classes and subclasses;
- C. under Section 42 of the *Act*, the W.C.B. shall establish subclassifications, differentials and proportions in assessment rates as between the different kinds of employment in the same class as may be considered just; and
- D. the governors have received a proposal from the president and Senior Executive Committee for the restructuring of subclass 0621 into two or more subclasses to reflect the differences among the retail employers currently classified in the subclass, in particular between very large food and other retailers and small retail employers:

NOW THEREFORE THE GOVERNORS RESOLVE THAT THEY:

- 1. approve in principle the restructuring of subclass 0621 into two or more subclasses to reflect the differences among the retail employers currently classified in the subclass;
- 2. instruct the president and Senior Executive Committee to present to them for approval a detailed recommendation as to the restructuring of subclass 0621 into two or more subclasses, including:
 - (a) the industry groupings for each resulting subclass, with the appropriate description for each industry grouping,

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- (b) the appropriate adjustment and disposition of the funds, reserves and accounts of subclass 0621 among the resulting subclasses, and
 - (c) the 1995 assessment rate for each resulting subclass; and
 3. authorize the interim publication of the 1995 *Classification and Rate List* with subclass 0621, shown as currently structured but with no assessment rate.

Decision of the Governors

Number: 86
Date: November 16, 1994
Subject: Bylaw No. 4 — Published Policy of the Governors

As made by the governors of the Workers' Compensation Board of British Columbia, a policy, resolution and bylaw relating to the published policy of the governors is made and enacted as follows:

1.0 Section 1 — Published Policies of the Governors

- 1.1 As of June 3, 1991, the published policies of the governors consist of the following:
 - (a) the *Assessment Policy Manual*,
 - (b) the *Occupational Safety and Health Division Policy and Procedure Manual*,
 - (c) the *Rehabilitation Services and Claims Manual*, and
 - (d) *Workers' Compensation Reporter* Decisions No. 1–423.
- 1.2 After June 3, 1991, the published policies of the governors consist of the documents listed in paragraph 1.1, amendments to the three policy manuals, any new or replacement manuals issued by the governors, any documents published by the Workers' Compensation Board that are adopted by the governors as published policies of the governors, and all decisions of the governors declared to be policy decisions.
- 1.3 As of January 10, 1994, the *Classification and Rate List*, as approved annually by the governors, constitutes published policy of the governors.

2.0 Section 2 — Application of Published Policy of the Governors

- 2.1 In the event of a conflict between the *Act* or Regulations and the published policies of the governors, the *Act* and Regulations are paramount.

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- 2.2 In the event of a conflict between published policy in a Manual identified in Section 1.1 (a), (b), or (c) of this Bylaw, and published policy in *Workers' Compensation Reporter* Decisions No.1–423 identified in Section 1.1(d), published policy in the *Manual* is paramount.
 - 2.3 In the event of any other conflict between published policies of the governors:
 - (a) if the policies were approved by the governors on the same date, the policy most consistent with the *Act* or Regulations is paramount.
 - (b) if the policies were approved by the governors on different dates, the most recently approved policy is paramount.

3.0 Section 3 — Records of Governor Decisions

- 3.1 Originals of governors' decisions with respect to their published policies shall be retained by the Office of the Board of Governors in the manner directed by the chairman.

4.0 Manner of Publication

- 4.1 The policies of the governors shall be published in print.
- 4.2 The policies of the governors may also be published through an accessible electronic medium or in some other fashion that allows the public easy access to the policies of the governors.
- 4.3 The chairman shall supervise the publication of the *Workers' Compensation Reporter*. It will include decisions of the governors and selected decisions of the Appeal Division. It may include key decisions of the Workers' Compensation Review Board and Courts on matters affecting the interpretation and administration of the *Act* or other matters of interest to the community.
- 4.4 Appeal Division decisions do not become published policy of the governors by virtue of having been published in the *Workers' Compensation Reporter*. Appeal Division decisions are published in the *Reporter* to provide guidance on the interpretation of the *Act*, the Regulations and Board policies, practices and procedures.

5.0 Decision No. 3 and Effective Date

5.1 This policy, resolution and bylaw replaces Decision of the Governors No. 3 dated April 1, 1991 (*Workers' Compensation Reporter*, Vol. 7: p. 17) and comes into effect on December 1, 1994.

THIS POLICY, RESOLUTION AND BYLAW has been passed by the governors at a meeting of the governors duly called for that purpose on November 16, 1994.

