DISCUSSION PAPER

1. TITLE

Employer's Report of Injury

2. ISSUE

Employers are required to report injuries or disabling occupational diseases to the Workers' Compensation Board ("WCB") within three days of occurrence or receipt of information. In 2004, the average time for employer reporting was 11 days. Late reporting is problematic as it delays benefit payments and claims management efforts, particularly early return to work efforts. At issue is a need to improve the timeliness of the employer's report of injury to the WCB.

The Priorities and Governance Committee (the "PGC"), a subcommittee of the Board of Directors ("BOD"), recognizes that employer non-compliance with reporting obligations is a significant issue. The PGC has directed the Policy and Research Division ("PRD") to develop policy initiatives that reinforce the existing enforcement tools available under the *Act*. The issues addressed in this discussion paper, and those addressed in the Assessment Penalties project, are consistent with this direction in that they examine different approaches to encourage employer compliance with reporting obligations.

3. BACKGROUND

3.1 Law & Policy

Section 54 of the *Workers Compensation Act* ("*Act*") requires employers to report to the WCB within three days of its occurrence every injury that is or is claimed to be one arising out of and in the course of employment, and within three days of receiving information, every disabling occupational disease or claim for or allegation of an occupational disease. In the case of death, the report is required immediately.

By virtue of section 54(6), the WCB may by regulation define and prescribe a category of minor injuries not required to be reported, and may define or vary the time at which the obligation to report commences. Resulting from this provision, B.C. Regulation 713/74 ("Regulation 713/74") sets out a list of reportable injuries as characterized by particular conditions, and furthermore, that the obligation of the employer to report the injury to the WCB commences when a supervisor, first

aid attendant or other representative of the employer first becomes aware or is notified of such reportable injuries.[1]

Regulation 713/74 has been incorporated mostly verbatim into policy, with sections 1 and 2 set out in policy item #94.12, *What Injuries Must be Reported,* and section 3 in policy item #94.13, *Commencement of the Obligation to Report* of the *Rehabilitation Services & Claims Manual* ("*RSCM*").

Section 54 of the *Act* provides that the employer's failure to submit a report in a timely manner as required, unless excused by the WCB on the ground that the report for some sufficient reason could not have been made, constitutes an offence. Furthermore, where a report is not received within seven days of an injury or death, the WCB may make an interim adjudication of the claim and commence with payment of compensation to the worker. Late reporting employers are subject to maximum fine, set at $4,350.26 for 2005, and potential liability for any compensation costs that may result from an interim adjudication.

The *Act's* offence and penalty provisions are expanded upon in policy item #94.15, *Penalties for Failure to Report*, of the *RSCM.*

4. DISCUSSION

4.1 The Negative Effects of Late Employer Reporting

The reporting timeframe set out in BC is consistent with other Canadian jurisdictions, as most also require the employer's report of injury within three days of the injury's occurrence or notification of such injuries.[2] On the higher end of the scale, Manitoba, Nova Scotia, and Saskatchewan allow for five days, and Ontario allows for seven days.

However, despite the *Act's* clear direction for timely reporting, historically many employers in BC have been very slow in reporting injuries, and the WCB has not enforced the legislative requirements. For example, the past three years the

[1] Regulation 713/74 also appears as Decision No. 61 of Volume 1 of the *Workers' Compensation Reporter,* which has been retired from policy status.

[2] As noted, section 54 of the *Act* requires employers to report injuries to the WCB within three days of an injury's occurrence. This legislated timeframe has been expanded by regulation and policy to provide that the employer's obligation to report arises when the employer or the employer's representative first becomes aware of the reportable injury. Should the legislated timeframe be increased, a legislative change would be necessary. However, this may result in a negative effect if employers who are already compliant with their reporting obligation take advantage of a more generous timeframe. Moreover, an increased timeframe might not capture many employers, given the current reporting duration of 11 days from the injury's occurrence.

average timeliness for employer reporting was 11 days. In 2004, only 20% of claims were reported by employers within 0 – 3 days, as required by the *Act*.[3]

The detrimental consequences of late employer reporting are widespread, affecting workers, employers, and the WCB system as a whole. Late employer reporting impedes the adjudication process by delaying benefit payments and stalling claims management efforts. Such delays are often associated with higher claims costs. This is reflected in statistics from 2004, which show that the costs of claims reported by employers after 14 days were 23% higher than the total claims costs for those reported within 0 to 3 days.[4]

Given that the WCB is a collective liability system, the cost of late employer reporting is shared by all employers, with compliant employers unfairly bearing the burden of increased costs.

4.2 Addressing the Concerns of the Employer Community

Senior WCB staff members have met with employer representatives regarding the employer's report of injury. The PRD has also consulted with a representative from the Employers' Forum on this matter, and has presented a discussion paper on this issue to the Policy & Practice Consultative Committee ("PPCC") at the July 21, 2005 meeting. Issues of concern raised, and proposed solutions, include the following:

(i) A need for improved clarity as to what injuries are reportable and when the reporting obligation arises.

To address this concern, the PRD proposes revisions to Regulation 713/74 and policy items #94.12, *What Injuries Must be Reported* and #94.13, *Commencement of the Obligation to Report.* The changes are intended to clarify what injuries need to be reported and when the three-day time requirement starts. Draft versions of these proposed changes are set out respectively in Appendices A and B.

It is also noted that the Worker and Employer Services Division is engaged in an Operational Excellence project entitled the Employer Injury Reporting Project. Amongst other things, this project is examining whether employers are being provided with the most effective and convenient means for reporting to the WCB.

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3 These statistics exclude anomalies that would otherwise skew the figures to a higher average, and are based upon the number of days from injury to the scan date of the Form 7 Employer's Report of Injury. While information regarding the "date the injury was first reported to the employer" is collected at question #2 of the Form 7 and Form 6, the current WCB database system is not able to generate this information.

4 Statistical information provided by the WCB Knowledge Management Department of the Program Design Division.

(ii) A need for assurance that enforcement of the employer's obligation would be based upon the *date the injury was first reported to the employer,* rather the date the injury occurred.

To fully address this concern, the limitations of the current WCB database system need to be addressed. While information regarding the "date injury was first reported to the employer" is captured at Question #2 of the Employer's Report of Injury Form ("Form 7"), and the Worker's Report of Injury ("Form 6"), the current database system does not code this information and is unable to make use of this data. Therefore, until significant changes are made to the database system, any enforcement efforts by the WCB would require a manual review of all claims flagged for late reporting, as per the date of the injury, to ensure that the employer's report was received more than three days from the date that the injury was first reported to the employer.

Therefore, it is recommended that appropriate system changes take place before a renewed enforcement strategy is implemented. It is anticipated that such changes can be undertaken as part of the Claims Management System, which is scheduled for implementation in July 2007.

(iii) A need for assurance that the WCB will exercise its discretion in considering the individual merits of the employer's case, which in some circumstance, may constitute a justifiable excuse for late reporting.

It is noted that section 54 of the *Act* contains discretionary language as to whether sanctions should be charged, the amount that should be charged, and whether relief should be granted to the employer. Therefore, it is important for policy to be drafted in such a way to not fetter the WCB's discretion, and to emphasize that the individual merits of the employer's case must be given due consideration.[5] Section 5.4 of this Discussion Paper sets out a model for an enforcement strategy which incorporates the discretionary direction set out by the *Act.*

4.3 Employer Reporting Education Campaign

To address the various issues pertaining to the employer report of injury, a comprehensive educational campaign is proposed.[6] The goals of the campaign would include the following:

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[5] While policy item #94.15 currently sets out guidelines for when employers may be excused for late reporting, the list set out is somewhat convoluted. Rather than setting out acceptable reasons for late reporting, it describes situations in which the interim adjudication should not have occurred in the first place or where the injury was not in fact reportable.

[6] A similar educational campaign has recently been undertaken in Alberta and Saskatchewan.

- To raise awareness amongst employers of their legislated obligation to report injuries, occupational diseases and fatalities in a timely manner.

- To communicate to employers the importance and value of timely reporting, and the negative consequences that may result from non-compliance.

- To improve the timeliness of the employers' reporting practices.

- To educate employers on sanctions for late reporting, should a new enforcement strategy be adopted.

While a detailed communications plan would need to be developed, the following types of initiatives could be undertaken:

- Reference to the Timely Employer Reporting Strategy by senior WCB officials at speaking engagements, such as the upcoming March 2006 WCB *Employers' Forum on Disability Management,* which will be attended by approximately 300 large employers.

- Written correspondence to the Top 100 employers with the worst reporting records and to the Top 100 employers with the most injuries/highest injury rate.

- Communication through various WCB publications distributed to employers, such as *Access* and *Worksafe Magazine.*

- Prominent attention at www.worksafebc.ca

- Communication materials to be included with the employers' monthly or quarterly billing statements.

- Partnerships with stakeholder groups such as the Employers' Forum and the Employers' Advisers Office to undertake communication efforts.

4.4 Enforcement Strategy

It is noted that every jurisdiction in Canada provides penalty provisions for late employer reporting, although not all jurisdictions report active enforcement. Active enforcement through sanctions is reported by Manitoba, Nova Scotia, Ontario, the NWT and Nunavut, and most recently, in Alberta and Saskatchewan. A detailed interjurisdictional comparison is set out in Appendix C.

Many of the jurisdictions with active enforcement programs state that the timeliness of employer reporting has improved with the application of penalties,

and for some of these jurisdictions, the timeliness of employer reporting is very good. Newfoundland states that 95% of employers report on time, the Northwest Territories at 93%, and Nova Scotia at over 80%.

However, challenges in administering penalty programs were also noted. Ontario reports that some employers avoid penalties by rushing their report in at the expense of completeness and accuracy, which in turn requires a labour intensive follow-up. Also, Nova Scotia reports a high volume of requests from employers for penalty relief, which causes a strain on administrative resources.

While historically not applied, in British Columbia the *Act* provides the following sanctions for late employer reporting:

- A maximum fine of $4,350.26 (2005 maximum), as per the offence provision set out in section 54(5).

- As a result of any interim adjudication that may arise from the employer defaulting on their reporting obligation, any compensation paid until three days after receipt by the WCB of the required report may be levied and collected from the employer by way of additional assessment as a contribution to the accident fund, as per sections 54(7) – (8).

It is noted that the imposition of sanctions by way of fines as provided by section 54(5) would require the prosecution of accused offenders through the court system.[7] This process would be controlled by Crown Counsel, who have expressed little appetite to take on such issues. Therefore, given that sanctions imposed by sections 54(8) can be administratively managed, it is more feasible for the WCB to pursue this approach for an enforcement strategy.

Policy item #94.15, *Penalties for Failure to Report,* contemplates a process for levying of compensation costs under section 54(7) – (8), whereby defaulting employers are first sent a letter warning of the effects of the section, and six months later, a second letter is sent warning that any future claims resulting in an interim adjudication will be charged to the employer until the elapse of three days from when the report is received. Furthermore, employers are given an opportunity to explain why they should not be charged. Should costs continue to be charged, this will continue until the overall reporting record is shown to have improved sufficiently at a subsequent six-month review. While this process has been in place for some time, it generally has not been applied.

[7] Section 54(5) states that the failure to make a report as required constitutes an offence under Part 1. Furthermore, section 77(2) states that every person who commits an offence under Part 1 for which no other punishment has been provided is liable on conviction to a fine not exceeding $4,350.26 (2005 rate, as per section 25(4) and as set out in Appendix 6 of the *RSCM*). It is also noted that section 78 states that the penalties imposed by or under Part 1 are recoverable under the *Offence Act* or by an action brought by the Board in a court of competent jurisdiction.

In recognition that the application of sanctions may be an effective means to influence timely reporting, a new enforcement scheme under section 54(7) – (8) is proposed for consideration.[8] Rather than reviving the old process set out in policy item #94.15, a new model is proposed, whereby sanctions in the form of additional assessments would be levied and collected in an escalating manner for any compensation paid as a result of an interim adjudication, in accordance to the severity of the employer's late reporting habits. With nominal amounts levied for minor infractions and hefty amounts for more serious offences, the escalating model may be appropriate for a broad-based penalty program, and is reflective of the approach in many other jurisdictions.

An example of an escalating model for the levying and collection of additional assessments under section 54(7) – (8), which incorporates the discretionary direction of the *Act,* is as follows:

- At the first instance of the employer's default on reporting obligations, a notification letter will be sent to employers, providing notice of their reporting record and the potential consequences for future non-compliance. The purpose of the notification letter would be to provide a courtesy notice to the employer of their poor reporting record, and to warn that additional assessments may be levied for future infractions.[9]

- In the event of any non-compliance of reporting obligations following the sending of the notification letter, wherein interim adjudication results, compensation costs may be levied and collected from the employer by way of additional assessment as a contribution to the accident fund, and payment may be enforced in a like manner as other assessments. The following sets out an option for a guideline amount to be assessed and collected from the employer in this regard:

    - 1st Default – up to $100
    - 2nd Default – up to $250
    - 3rd Default – up to $500
    - 4th Default – up to the full costs of compensation paid, until the elapse of three days from the receipt of the employer's report.

- The WCB would determine a fair and appropriate amount given the merits of the case. However, where warranted by exceptional circumstances, the

[8] Clarification is required as to which WCB Division would administer the proposed enforcement strategy. In order to avoid tension between adjudicators and employers, it may be appropriate to appoint a special committee, similar to the process that is in place for the charging of claims costs under section 47(2).

[9] To avoid disputes with the employer, it is important the notification letter be drafted in such a way that it would not constitute a decision letter.

WCB would consider charging a lesser or higher amount than what is set out in the above guideline.[10]

- Prior to the charging of claims costs, the WCB would send a letter to employers warning that additional assessments may be levied, and inviting any information or submissions within a set timeline as to why the delay in reporting is excusable. In general, circumstances that are within the employer's control would not constitute a valid excuse for late reporting.

- Should an employer disagree with the levying of an additional assessment under section 54(8), further to section 96.2(1)(b), they may apply to the Review Division for a review of the decision.

Should the above or any other new enforcement scheme be adopted, it is recommended the changes be gradually introduced as a 2007 pilot project, with initial focus on a small target group, such as the top 100 employers with the worst reporting records. This is similar to the approach taken by Alberta and Saskatchewan. In Alberta, Account Managers work directly with the "worst offender" employers by offering advice and assistance to improve reporting practices.

The gradual introduction of a penalty program would allow employers with poor reporting records with time to change their business practices without fear of sanctions. It would also provide adequate time for the WCB to effectively communicate with employers, to implement necessary system and process changes, and to train staff appropriately. Finally, gradual introduction would help to relieve a possible strain on the appeal system, and would allow the WCB time to assess the cost and effectiveness of the new program.

5. OPTIONS AND IMPLICATIONS

Option 1: Status quo

Under this option, there would be no change to policy or practice. There would be no revisions made to policy to clarify which types of injuries are reportable, and no strategy implemented to raise awareness amongst employers of their obligation and the importance of timely reporting. Furthermore, there would be no change to the WCB's current practice of not enforcing employer reporting obligations.

[10] It is noteworthy that section 54(8) supports the collection of full claims costs that may result from an interim adjudication, up until three days after receipt by the Board of the required report. Therefore, a defaulting employer may be held liable for all costs resulting from an interim adjudication, regardless of when their reporting obligation may have arisen.

Implications

- Long delays in employer reporting would likely continue. As a result, workers, employers and the WCB would continue to be detrimentally affected.

Option 2: (i) Changes to Reporting Requirements and (ii) Adoption of the Employer Reporting Education Campaign

Under this option, revisions would be made to Regulation 713/74, as set out in Appendix A, and to policy items #94.12, *What Injuries Must be Reported* and #94.13, *Commencement of the Obligation to Report,* as set out in Appendix B.

In addition, the WCB would implement an educational campaign to educate employers on reporting requirements and the consequences for non-compliance.

Implications

- Clarification would result with respect to what injuries must be reported, and when the reporting obligation commences.

- Employers would become better aware of their reporting obligations, the inherent business value of timely reporting, and the consequences that may result for late reporting. As a result, it is anticipated that the many employers would voluntarily comply.

- With improved timeliness of employer reporting, reduced claims costs would result.

- Workers would benefit from more timely benefit administration and claims management efforts.

- By alerting employers of their reporting obligations and the consequences for non-compliance, the WCB would be fulfilling its obligation to administer the *Act*.

- Improving the timeliness of the employer's report to the WCB would help to facilitate the efficient operation of the Claims Management System.

- Issues raised regarding the lack of enforcement efforts with respect to employer reporting would not be addressed.

Option 3: (i) Changes to Reporting Requirements and (ii) Adoption of the Employer Reporting Education Campaign and (iii) Implementation of a New Enforcement Strategy

The details and implications regarding the proposed changes to (i) reporting requirements and (ii) adoption of an employer reporting education campaign are addressed at Option 2.

(iii) Implementation of a New Enforcement Strategy

Under Option 3, revisions would be made to policy item #94.15, *Penalties for Failure to Report,* to reflect a new enforcement strategy which would be introduced as a Fall 2007 pilot program with initial focus on a target group of employers with poor reporting practices.

Further to sections 54(7) – (8), compensation costs resulting from an interim adjudication may be levied and collected from late reporting employers on an escalating basis, with appropriate discretion provided to the WCB to consider the individual merits of the employer's case in determining whether sanctions are appropriate, the amount that should be charged, and whether relief should be applied.

The WCB would provide a notification letter to employers at the first instance of default, advising of their reporting record and the consequences which may follow with future non-compliance. If non-compliance with the reporting obligation continues and interim adjudication results, before charges are levied a warning letter would be sent to employers advising of pending sanctions and inviting submissions within a set timeline as to why the delay in reporting is excusable and relief should be granted. If additional assessments are levied, employers would be provided with an opportunity to request a review from the Review Division.

In the event of any non-compliance of reporting obligations following the sending of the notification letter, wherein interim adjudication results, compensation costs may be levied and collected from the employer by way of an additional assessment as a contribution to the accident fund, as per the authority of section 54(8). There are two possible approaches for the guideline amount to levy against employers for non-compliance that follows the sending the notification letter:

Option 3A: Tiered Approach for the Levying of Additional Assessments

- 1st Default – up to $100
- 2nd Default – up to $250
- 3rd Default – up to $500

- 4th Default – up to the full costs of compensation paid, until the elapse of three days from the receipt of the employer's report.

Option 3B: Accelerated Approach for the Levying of Additional Assessments

- 1st Default – up to $250
- 2nd Default – up to the full costs of compensation paid, until the elapse of three days from the receipt of the employer's report.

Implications for Option 3A & 3B

- The enforcement strategy may help to motivate some employers to improve their reporting practices, which in turn would help to improve return to work efforts and the timeliness of the worker's compensation payments.

- The proposed enforcement strategy under both sub-options would set a nominal penalty for minor infractions, and hefty amounts for more serious offences. Under Option 3A, the guideline would allow for more gradual sanctions, with the full costs of the claim generally not being applied until the fourth default after the notification letter has been sent. Under Option 3B, the sanctions would generally escalate more quickly, with charging of the full costs of the claim at the 2nd default after the notification letter has been sent.

- The funds collected would be collected as an additional assessment to the accident fund, and would help to offset the financial burden caused by late reporting.

- Additional assessments charged to employers would not impact their experience rating.

- The proposed model for escalating sanctions is reflective of the approach taken in many other jurisdictions.

- With clearly defined sanctions, employers would benefit from a clear understanding of the consequences for late reporting, and the WCB would be able to set processes for administration.

- With the gradual introduction of the new enforcement strategy as a 2007 pilot program, employers would be provided with sufficient time to change their business practices without fear of penalty. Moreover, the WCB would have adequate time to communicate with employers, implement

necessary system and process changes, train staff, and assess the effectiveness of the new program. The gradual introduction of penalties would also help to alleviate a possible strain on the appeal system.

- Employers and the WCB would benefit from improved clarity as to the circumstances in which an employer's delayed reporting may be excusable.

- As sections 54(7) – (8) are discretionary, the WCB would be able to apply its judgment at the outset as to whether a penalty is an appropriate sanction for the circumstance. Also, employers would benefit from a notification letter and warning letter before the additional assessments are levied, which would advise of an opportunity for the employer to explain why the delay in reporting should be excused. Employers who wish to dispute the levying of additional assessments may also request a review by the Review Division.

- With employer disputes over penalties, the volume of work at the Review Division and Workers' Compensation Appeals Tribunal would likely increase.

- Increased administrative costs would likely result from the proposed enforcement strategy.

- It is anticipated that the penalty program would have the greatest impact on medium and large employers. The effectiveness on small employers, many of whom only have WCB claims on an intermittent or infrequent basis, would likely be limited.

6. CONSULTATION

Further to the advice of the Policy and Practice Consultative Committee, in addition to the PRD's key stakeholder groups, consultation on this issue is sought from the BC Association of Chartered Accountants and major employers who hold deposit accounts with the WCB.

Stakeholders are invited to provide feedback on the discussion paper, options, draft policy, and any additional comments that may be relevant to the issue.

Stakeholder comments will be accepted until **September 14, 2005**. When responding, please provide your name, organization, and address. Comments may be sent by mail, fax or e-mail to:

By mail: Kristin Helgason
Senior Policy Analyst
Policy and Research Division
Workers' Compensation Board
P.O. Box 5350, Stn. Terminal
Vancouver, B.C. V6B 5L5

By fax: 604 279-7599

By e-mail: policy@worksafebc.com

The WCB's governing body, the Board of Directors, will consider the options expressed by stakeholders before it adopts any amendments to the current policies.

Please note that all comments become part of the Policy and Research Division's database and may be published, including the identity of organizations and those participating on behalf of organizations. The identity of those who have participated on their own behalf will be kept confidential according to the provisions of the *Freedom of Information and Protection of Privacy Act*.

APPENDIX A

PROPOSED REVISIONS TO REGULATION

Workers Compensation Act

REPORTS OF INJURIES REGULATION

B.C. Reg. 713/74

~~1. Where none of the conditions listed (a) to (h) in Regulation 3 is present, an injury is a minor injury and not required to be reported to the Board unless one of those conditions subsequently occurs.~~

Reportable injuries

~~2.~~ **1.** A reportable injury is an injury arising out of and in the course of employment under Part I, or which is claimed by the worker ~~concerned~~ to have arisen out of and in the course of such employment, **and is characterized or is subsequently characterized by any of the following conditions:** ~~and in respect of which any one of the following conditions is present or subsequently occurs.~~

(a) The worker is unable or claims to be unable by reason of the injury to return to their usual job function on any working day subsequent to the day of the injury.

(b) The worker loses consciousness following the injury.

(c) The injury resulted or is claimed to have resulted in the breakage of artificial appliances, eyeglasses, dentures or a hearing aid.

(d) The injury is such that medical treatment has resulted, is one that obviously requires medical treatment, and/or the worker states an intention to seek medical treatment.

(e) The worker is transported, or directed by a first aid attendant or other representative of the employer to a hospital or other place of medical treatment, or is recommended by such person to go to such place.

(f) The worker or the Board has requested the employer to report the injury.

APPENDIX A

Where none of the conditions listed above in (a) to (f) is present, an injury is a minor injury and is not required to be reported to the Board unless one of those conditions subsequently occurs.

~~(a) The worker loses consciousness following the injury, or~~

~~(b) The worker is transported or directed by a first aid attendant or other representative of the employer to a hospital or other place of medical treatment, or is recommended by such person to go to such place, or~~

~~(c) The injury is one that obviously requires medical treatment, or~~

~~(d) The worker states that he intends to seek medical treatment, or~~

~~(e) The worker has received medical treatment for the injury, or~~

~~(f) The worker is unable or claims that he is unable by reason of the injury to return to his usual job function on any working day subsequent to the day of injury, or~~

~~(g) The injury or accident resulted or is claimed to have resulted in the breakage of an artificial member, eyeglasses, dentures, or a hearing aid, or~~

(h) ~~The worker or the Board has requested that an employer's report be sent to the Board.~~

Commencement of the obligation to report

~~3.~~ **2.** The obligation of the employer to report the injury to the **Board** ~~board~~ commences when a supervisor, first aid attendant, or other representative of the employer first becomes aware of any one of the conditions listed in section **1** ~~2, or when notification of any such condition is received by mail or telephone at the local or head office of the employer.~~

APPENDIX B

PROPOSED REVISIONS TO POLICY FROM THE *REHABILITATION SERVICES & CLAIMS MANUAL*

#94.12 What Injuries Must Be Reported

As set out by BC Regulation 713/74, a ~~A~~ reportable injury is an injury arising out of and in the course of employment **under Part I**, or which is claimed by the worker ~~concerned~~ to have arisen out of and in the course of such employment, **and is characterized or is subsequently characterized by any of the following conditions:** ~~and in respect of which any one of the following conditions is present or subsequently occurs.~~

(1) The worker is unable or claims to be unable by reason of the injury to return to their usual job function on any working day subsequent to the day of the injury.

(2) The worker loses consciousness following the injury.

(3) The injury resulted or is claimed to have resulted in the breakage of artificial appliances, eyeglasses, dentures or a hearing aid.

(4) The injury is such that medical treatment has resulted, is one that obviously requires medical treatment, and/or the worker states an intention to seek medical treatment.

(5) The worker is transported, or directed by a first aid attendant or other representative of the employer to a hospital or other place of medical treatment, or is recommended by such person to go to such place.

(6) The worker or the Board has requested the employer to report the injury.

Where none of the conditions listed (1) to (6) above are present, an injury is a minor injury and is not required to be reported to the Board unless one of those conditions subsequently occurs.

~~1. The worker loses consciousness following the injury, or~~

~~2. The worker is transported, or directed by a first aid attendant or other representative of the employer to a hospital or other place of medical treatment, or is recommended by such person to go to such place, or~~

~~3. The injury is one that obviously requires medical treatment, or~~

~~4. The worker states an intention to seek medical treatment, or~~

~~5. The worker has received medical treatment for the injury, or~~

~~6. The worker is unable or claims to be unable by reason of the injury to return to his or her usual job function on any working day subsequent to the day of injury, or~~

~~7. The injury or accident resulted or is claimed to have resulted in the breakage of an artificial member, eyeglasses, dentures, or a hearing aid, or~~

~~8. The worker or the Board has requested that an employer's report be sent to the Board.~~

~~Section 54(6)(a) provides that ". . . the board may by regulation~~

~~a. define and prescribe a category of minor injuries not required to be reported under this section; . . ."~~

~~Where none of the conditions listed 1 to 8 above are present, an injury is a minor injury and not required to be reported to the Board unless one of those conditions subsequently occurs.~~

#94.13 Commencement of the Obligation to Report

Further to section 54(6), the Board has established by BC Regulation 713/74 that the ~~The~~ obligation of the employer to report the injury to the Board commences when a supervisor, first aid attendant, or other representative of the employer first becomes aware of any one of the conditions listed in policy item #94.12**.** ~~, or when notification of any such condition is received by mail or telephone at the local or head office of the employer. (10)~~

In the case of death, the report is required immediately.

An employer who protests a claim should take care not to delay the submission of the Form 7 employer's report to the Board. If the employer wishes to investigate further, the employer should submit the Form 7 stating that an investigation report will follow, and give reasons for the delay.

~~Note:~~
~~(10) S.54(6)(b)~~

APPENDIX C
EMPLOYER'S REPORT OF INJURY: INTERJURISDICTIONAL OVERVIEW

Jurisdiction	Reporting Timeframe	Penalty Provisions (legislation, policy & practice)	Application of Penalties?
AB	3 days	• 4 – 10 days delinquent: $100 • 10+ days delinquent: $500 • Maximum fine: $25,000 • Disqualification from premium pricing • Costs of investigation • In extreme cases, prosecution	Yes – New fine structure implemented in 2004. Penalties are being gradually introduced, with initial attention to the worst offenders. In 2004, an employer educational campaign and a new penalty program which was implemented as a pilot project targeted at 67 employers with the worst reporting records. Of those employers, 78% improved their reporting practices, and for those who remained non-compliant, 27 penalty charges were laid and $13,500 collected. The penalty pilot project continues in 2005, with a focus on 25 employers with poor reporting records.
MB	5 days	• $150 penalty • Maximum $5000 fine	Yes, penalties are applied on routine time-loss claims.
NB	3 days	• $100 penalty • For non-reporting of fatality, loss of limb, occupational disease or injury requiring hospitalization, $50,000 Maximum, and imprisonment not exceeding six months	No – Legislation requires the pursuit of penalties through the court system.

APPENDIX C
EMPLOYER'S REPORT OF INJURY: INTERJURISDICTIONAL OVERVIEW

Jurisdiction	Reporting Timeframe	Penalty Provisions (legislation, policy & practice)	Application of Penalties?
NF	3 days	• "medical only", \$100 + \$25 each additional day up to maximum \$500 • "lost time" - \$200 + \$25 each additional day to a maximum of \$1,000	Yes – If the employer's report is not submitted within 7 day of request, a penalty is levied. In general, the daily penalty amount is only charged in exceptional cases. In most instances, penalties arise from administrative delays or mistakes. The penalty notice is automatically system-generated within a certain number of days after the claim is set. In most instances, employers will contact the WCB after the notification letter is received, and the amount will be rescinded if the delay is reasonable. Decisions regarding the application of penalties are handled by supervisors and managers rather than adjudicators. In 2004, a total of 593 penalties were assessed, with 293 being rescinded, resulting in 300 penalties being charged. Penalties for late reporting have been in place since the mid 1990's, and the timeliness of reporting has since improved. In 2004, it is estimated that 95% of employers reported in a timely manner.
NS	5 days	• Initial penalty of \$100 + \$25 for each additional day to maximum of \$500.	Yes – In 2004, 13,061 accounts were charged a penalty for late reporting, and a total of \$1.29 million was collected, not including interest. In 2004, 86% of time-loss claims, and 81% of medical-aid only claims were reported in a timely manner.

APPENDIX C
EMPLOYER'S REPORT OF INJURY: INTERJURISDICTIONAL OVERVIEW

Jurisdiction	Reporting Timeframe	Penalty Provisions (legislation, policy & practice)	Application of Penalties?
NWT & Nunuvat	3 days	• $250 for 1st or 2nd failure in 12 months • $500 for the 3rd or 4th failure in 12 months • $1000 for the 5th failure in 12 months • Costs of investigation	Yes – The late reporting penalty is applied in all cases. In 2004, there were 157 employers charged, resulting in 215 penalties, none of which were appealed. The total amount collected being $72,000. In 1990/91, the NWT started enforcing the employer's reporting obligation, and reports that it saw a dramatic improvement in reporting times as a result. In 2004, 93% of claims were reported in a timely manner.
ON	7 days	• Health care only claims - $25 to $250 • Compensation claims - $50 to $250 • Prosecution - maximum $25,000 fine and/or 6 months in prison for an individual; maximum $100,000 for corporate entity	Yes, for some time late employer reporting has been rigorously identified and penalties levied. In 2004, Ontario levied penalties in the amount of $2,735,250, and of that amount, $563,750 was reversed, which translates to 21% of all employer reporting penalties levied in 2004.
PEI	3 days	• $100 per day, to a maximum of $1000	No
SK	5 days	• On summary conviction, max. fine $1000 • Liability for compensation costs	Yes - Effective July 1, 2005, delinquent employers will be prosecuted. Legislation requires a summary conviction by the courts. The initial focus for prosecutions is on employers with large claim volumes and a chronic pattern of late and non-reporting.
YK	3 days	• Costs of the investigation • Initial penalty of $100, + $25 each additional day to a maximum of $500	In April 2005, the Yukon introduced a new penalty policy and initiated an educational campaign to improve the timeliness of the employer's report of injury, however, as of August 2005, penalties are not be actively pursued. In 2003, 62.2% of employers were in default of their reporting obligation, and the average timeliness was 17.63 days.

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EMPLOYER'S REPORT OF INJURY: INTERJURISDICTIONAL OVERVIEW