

2004/10/26-06

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA

RESOLUTION OF THE BOARD OF DIRECTORS

Re: Policy Item #31.20 - Hearing Loss

WHEREAS:

Pursuant to section 82 of the *Workers Compensation Act*, RSBC 1996, Chapter 492 and amendments thereto ("*Act*"), the Board of Directors must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

AND WHEREAS:

Policy item #31.20 *Amount and Duration of Noise Exposure Required by Section 7 of the Rehabilitation Services & Claims Manual ("RSCM")* contains an ambiguity relating to the jurisdictional requirement for the minimum threshold occupational noise exposure duration;

AND WHEREAS:

Minor amendments are also required to update and clarify the policy;

AND WHEREAS:

The Policy & Research Division has consulted with stakeholders on this issue ;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. To implement amendments, a revision to policy item #31.20 of Volume II of the *RSCM*, attached as Appendix A, is approved.
2. This resolution is effective December 1, 2004, and applies to all decisions made on or after that date.

DATED at Richmond, British Columbia, October 26, 2004.

By the Workers' Compensation Board

**DOUGLAS J. ENNS, CHAIR
BOARD OF DIRECTOR**

APPENDIX A

#31.20 Amount and Duration of Noise Exposure Required by Section 7

A claim is acceptable where, as a minimum, evidence is provided of continuous work exposure **in British Columbia** for two years or more at eight hours per day at 85 dBA or more, and when other evidence does not disclose any cause of hearing loss not related to work. The Board considers it reasonable to set the 85 dBA minimum standard for compensation purposes and then to allow a restricted measure of discretion for the acceptance of claims where the evidence is abundantly clear that the worker is extraordinarily susceptible and has been affected by exposure to noise at a lesser level.

~~The *Industrial Health & Safety Regulations* in effect at the time of the enactment of section 7 set 90 dBA for eight hours of worker exposure as the maximum permissible limit for noise in industry. However, it was recognized from all available information that to retain this standard for claims purposes would result in an inability to accept claims on behalf of approximately 15% of the worker population who are unusually susceptible to ill effects from noise below 90 dBA. As a result the *Industrial Health & Safety Regulations* effective on January 1st, 1978, retained 90 dBA criterion for the employment environment, but the 85 dBA standard was retained for compensation purposes. (11)~~

The Board does not accept evidence of the wearing of individual hearing protection as a bar to compensation. However, in the case of soundproof booths, where evidence shows that the booth was used regularly, was sealed and was generally effective, it may be difficult to accept that the work environment in question contributed to the hearing loss demonstrated.

Where the exposure to occupational noise in British Columbia is **less than 5%** or less of the overall exposure experienced by the worker, the claim is disallowed. Such a minimal degree of exposure is insufficient to warrant acceptance of the claim. Where the exposure to occupational noise in British Columbia is 90% or greater of the total exposure, a claim is allowed for the total hearing loss suffered by the worker. For percentages between 5 and 90, the claim is allowed for only that percentage of the hearing loss which is attributable to occupational noise in British Columbia, and the Board will accept responsibility for all health care costs related to the total hearing loss including the provision of hearing aids.

It has been suggested that after 10 years of exposure further loss is negligible. Generally speaking, the evidence is that the first 10 years has a significant effect at higher frequencies. However, where lower frequencies are concerned (up to 2,000 hz.) hearing loss continues after that time and may, in fact, accelerate in

those later years. Therefore, since the disability assessment under Schedule D relies on frequencies of 500, 1,000 and 2,000 hz., no adjustments for duration of exposure are made.

Effective Date: **December 1, 2004 - regarding clarification of jurisdictional requirements and minor amendments.**

Application: **Applies to all decisions made on or after December 1, 2004.**