



BOARD OF DIRECTORS
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2017/11/22-06

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA
RESOLUTION OF THE BOARD OF DIRECTORS

**RE: Amendments to Schedule B of the
Workers Compensation Act, RSBC 1996, Chapter 492**

WHEREAS:

Pursuant to section 6(4.1) of the *Workers Compensation Act*, RSBC 1996, Chapter 492, and amendments thereto ("*Act*"), the Board of Directors, on behalf of WorkSafeBC may, by regulation, add to or delete from Schedule B of the *Act*, a disease, process or industry, and set terms, conditions and limitations for doing so;

AND WHEREAS:

Pursuant to section 82 of the *Act*, the Board of Directors ("BOD") must set and revise as necessary the policies of the BOD, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

AND WHEREAS:

A typographical error has been identified in item 6 of Schedule B of the *Act*;

AND WHEREAS:

The Policy, Regulation and Research Division ("PRRD") has proposed amendments to Schedule B of the *Act* to correct the typographical error and has consulted with stakeholders on the proposed amendments;

AND WHEREAS:

The PRRD has advised the BOD of the results of the consultation;

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AND WHEREAS:

Pursuant to section 76 of the *Act*, a regulation amending Schedule B must specify the date on which the regulation comes into force, which date must be at least 90 days after its deposit under the *Regulations Act*;

AND WHEREAS:

Pursuant to the Provincial Government's *Regulatory Reform Policy*, the BOD has evaluated the proposed regulatory amendments according to the established regulatory criteria;

THE WORKERS' COMPENSATION BOARD ORDERS THAT:

1. Amendments to Schedule B of the *Act* as set out in the attached Appendix A are approved.
2. Consequential amendments to policy item #29.20, *Asthma* and to Appendix 2 of the *Rehabilitation Services & Claims Manual*, Volume II ("*RS&CM*") as set out in the attached Appendix B are approved.
3. The above amendments to Schedule B of the *Act* will be deposited with the Registrar of Regulations in such form as may be required by the Registrar.
4. The above amendments to the *RS&CM* are effective on the date the above-noted regulatory amendments come into force.
5. This resolution constitutes a policy decision of the Board.

Dated at Richmond, British Columbia, on November 22, 2017.

By the Workers' Compensation Board

**JOHN BECKETT, CRSP, CPHR, MBA, ICD.D
CHAIR, BOARD OF DIRECTORS**

APPENDIX A

THE WORKERS' COMPENSATION BOARD ORDERS THAT:

Effective March 1, 2018, item 6 of Schedule B of the *Workers Compensation Act* is amended by repealing paragraph (3) in the second column and substituting the following:

- (3) the dusts, fumes or vapours of other chemicals or organic material known to cause asthma.

Dated at Richmond, British Columbia, November 22, 2017.

By the Workers' Compensation Board

JOHN BECKETT, CRSP, CPHR, MBA, ICD.D
CHAIR, BOARD OF DIRECTORS

Appendix B

CONSEQUENTIAL AMENDMENTS REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II

Additions in Bold, Deletions Struckthrough

#29.20 Asthma

Schedule B lists "Asthma" as an occupational disease. The process or industry listed opposite to it is "Where there is exposure to

- (1) western red cedar dust; or
- (2) isocyanate vapours or gases; or
- (3) the ~~dust~~**dusts**, ~~fume~~**fumes** ~~or~~ vapours of other chemicals or organic material known to cause asthma."

1. Evidence of Exposure

There are many substances which are either known to cause asthma in a previously healthy individual, or to aggravate or activate an asthmatic reaction in an individual with a pre-existing asthma condition. The significance of occupational exposures to these substances may be complicated by evidence that the worker is exposed to such substances in both occupational and non-occupational settings. In the investigation of the claim, the Board seeks evidence of whether the worker is exposed to any sensitizing or irritating substances (obtaining where available any material safety data sheets), the nature and extent of occupational and non-occupational exposure to such substances, and whether there is any correlation between apparent changes in airflow obstruction/responsiveness and exposure to such substances. Additional medical evidence may be available in the form of airflow monitoring, expiratory spirometry, inhalation challenge tests, and skin testing for sensitization.

2. Pre-existing Asthma Condition

A pre-existing asthma condition is not compensable unless such underlying condition has been significantly aggravated, activated, or accelerated by an occupational exposure. A worker is not entitled to compensation where his or her pre-existing asthma condition is triggered or aggravated by substances which are present in both occupational and non-occupational settings unless the workplace exposure can be shown to have been a significant cause of an aggravation of the condition. A speculative possibility that a workplace exposure to such a substance has caused an aggravation of the pre-existing asthma is insufficient for the acceptance of a claim.

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Additions in Bold, Deletions Struckthrough

3. Temporary Disability

In the case of a compensable asthma or a respiratory tract reaction to a substance with irritating or inflammatory properties, temporary disability benefits are payable until the worker's acute symptoms resolve or stabilize or the worker reaches retirement age as determined by the Board.

4. Permanent Disability

(i) Work-Caused Asthma

Where workplace exposures have caused the worker to develop asthma (either allergic or irritant-induced) and the worker's acute symptoms do not entirely resolve, so that he or she is left with a permanent impairment of the respiratory system, the Board may grant a permanent disability award after considering the asthma tables in the *Permanent Disability Evaluation Schedule*.

(ii) Permanent Aggravation of Pre-existing Asthma

Where workplace exposures have caused a permanent aggravation of the worker's pre-existing asthma, so that the worker is unlikely to return to his or her pre-exposure state, the Board may grant a permanent disability award after considering the asthma tables in the *Permanent Disability Evaluation Schedule*. In these cases, the Board considers whether proportionate entitlement under section 5(5) of the *Act* is appropriate. (See policy items #44.00 to #44.31.)

In the situation described above, no permanent disability award is granted to a worker with a pre-existing asthma condition when the worker has returned to his or her pre-exposure state.

(iii) Asthma Due to Sensitization

Where workplace exposures to a sensitizing agent have caused the worker to develop asthma and the worker's acute symptoms resolve following removal from the workplace, the Board may consider the worker to have a permanent impairment where:

- the worker is left with a significant underlying allergy or sensitivity; and as a result

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- the worker must avoid workplaces containing the sensitizing agent.

A significant underlying allergy or sensitivity is one where the worker reacts with asthmatic symptoms when exposed to a workplace sensitizing agent. This is indicated by increased bronchial reactivity and/or a significant change in peak flow when the worker returns to the workplace under conditions that do not expose the worker to excessive (i.e. irritant) levels of the sensitizing agent or other known respiratory irritants.

In determining whether there is a need to avoid certain workplaces, the Board considers the medical evidence, including the nature of the sensitization and the likelihood of an asthmatic reaction should the worker return to a work environment containing the sensitizing agent. In making this assessment, the Board considers medical advice from the attending physician and/or Board Medical Advisor.

Where it is found that the worker has a permanent impairment due to a significant underlying allergy or sensitivity, the Board considers the asthma tables found in the *Permanent Disability Evaluation Schedule* to assess the disability rating.

EFFECTIVE DATE:

~~January 1, 2007~~ **March 1, 2018**

HISTORY:

March 1, 2018 – Consequential amendment resulting from correcting typographical error in Schedule B.

January 1, 2007 – Policy revised, including to provide that a worker may be considered to have a permanent impairment where the worker is left with a significant underlying allergy or sensitivity, and as a result, the worker must avoid workplaces containing the sensitizing agent.

July 16, 2002 – Housekeeping change to update terminology.

APPLICATION:

To claims where the worker is first disabled from earning full wages, in accordance with section 6(1) of the *Workers Compensation Act*, on or after ~~January 1, 2007~~ **March 1, 2018**.

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APPENDIX 2

OCCUPATIONAL DISEASES LISTED IN SCHEDULE B – #26.01

SECTION 6(4)

DESCRIPTION OF DISEASE

DESCRIPTION OF PROCESS OR
INDUSTRY

...

6. Asthma	Where there is exposure to: (1) western red cedar dust; or (2) isocyanate vapours or gases; or (3) the dust dusts , fume fumes or vapours of other chemicals or organic material known to cause asthma.
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