

**THE WORKERS' COMPENSATION BOARD  
MEETING OF THE BOARD OF DIRECTORS  
MINUTES**

<b>DATE:</b>	March 22, 2021
<b>PLACE:</b>	Zoom Video Conference
<b>TIME:</b>	12:05 p.m. to 1:10 p.m.

**BOARD MEMBERS**

Erna Ference, Chair  
Mike Boyle, Member  
William Hnydyk, Member  
Brian McConkey, Member  
Shawna Miller, Member  
Mary Phillips-Rickey, Member  
Jane Sustrik, Member

**EXECUTIVE**

Trevor Alexander, President & Chief Executive Officer \*\*  
Tarick Ahmad, Chief Technology Officer \*  
Ron Helmhold, Chief Financial Officer \*  
Wendy King, Senior Vice President, Operations and Innovation \*  
Marcela Matthew, Vice President, Millard Health and Special Care Services \*  
William P. Ostapek, Secretary and General Counsel \*  
Roxy Shulha-McKay, Vice President, Employee and Corporate Services \*

**ALSO PRESENT**

Leslie Henkel, Board of Directors' Secretariat

\* excused for *in camera* sessions during items 5.1, 5.2 and 7

\*\* excused for *in camera* sessions during items 5.1, 5.2 and item 7 (part 2)

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**Board of Directors**

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**4.3 New Policy 04-11, Duty to Cooperate, and  
Repeal of Obligation to Reinstate Provisions**

Bill 47, detailing changes to the Workers' Compensation Act, received Royal Assent on December 9, 2020. Amendments included the repeal of section 88.1, concerning the obligation to return injured workers to work and the addition of sections 89.1, 89.2 and 89.3, concerning duties of workers to mitigate and cooperate and duties of employers to cooperate.

Under s.89.1, workers have a duty to take all reasonable action to mitigate any earnings loss caused by work injury and, if circumstances require it, to cooperate with WCB in the development of vocational or other rehabilitation plans.

Under s.89.2, employers have a duty to cooperate with the worker and WCB in efforts to achieve the worker's early and safe return to work.

A draft Policy 04-11, *Duty to Cooperate*, was posted for online consultation from January 15, 2021, to February 15, 2021. Public consultation was not required regarding the repeal of s.88.1 as the legislation is prescriptive, and the policy amendments simply reflect the new legislative requirements.

**MOTION**

2021/02/09

It was moved that,

The Board of Directors approve the draft policies, which reflect updates to the *Workers' Compensation Act*. Legislative changes include the additions of sections 89.1, 89.2, and 89.3 concerning duties to cooperate for workers and employers, and the repeal of section 88.1, concerning the obligation to return injured workers to work.

Policy revisions include:

- A new Policy 04-11, Duty to Cooperate, related to specific cooperation requirements under the WCA including reporting requirements, attendance and participation in medical treatment, and a duty to cooperate in return to work,
- Revisions to various policies related to the obligation to reinstate. Section 88.1 of the WCA, concerning the obligation to return injured workers to work, came into force on September 1, 2018, and was subsequently repealed as of April 1, 2021.

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**Board of Directors**

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Although s.88.1 has been repealed, it still applies to claims with dates of accident from September 1, 2018, to March 31, 2021, inclusive. Employer and worker rights, obligations, and penalties for non-compliance provided for in the section continue for these claims as though the section were still in force.

**Effective Date:** The effective date for all policies is April 1, 2021, except for Policy 04-05, Part II, Applications 2 and 3, which has an effective date of September 1, 2018, applying to all claims with a date of accident from September 1, 2018, to March 31, 2021, inclusive.

**CARRIED**