

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

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| DATE: | March 22, 2021 |
| PLACE: | Zoom Video Conference |
| TIME: | 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)

4.4 **Policy 04-05, Part II, Application 4, Egregious Conduct**

Under Bill 47, a new subsection was added to s.56 of the *Workers' Compensation Act* that may affect the benefits WCB pays an injured worker when the employer withdraws modified work or terminates the worker during modified work. The existing s.56(14) directs WCB to put the worker on full wage loss benefits in those circumstances. The new s.56(15.1) provides an exception to that rule, so that when an employer withdraws modified work or terminates the worker because of the worker's egregious conduct, s.56(14) does not apply. Instead, WCB is directed to pay benefits in accordance with s.56(13)(a) as if the worker was continuing to work and not place them back on full wage loss benefits. This change has a serious impact on the worker's financial support from WCB. To accommodate this exception, revisions to Policy 04-05, Part II, Application 4, which speaks to modified work in general, are necessary.

WCB posted a draft policy describing egregious conduct for a 30-day online consultation on January 15, 2021.

Section 56(15.1) puts WCB in the position of defining egregious for all employment situations and it must be applied to all workers consistently – regardless of the varying policies and procedures in place at various worksites. To assist in adjudication, the policy creates a framework which focuses on both the behavioural and situational context and sets out a series of factors for defining egregious conduct.

MOTION

2021/02/10

It was moved that,

The Board of Directors approve the proposed revisions to Policy 04-05, Part II, Application 4, to address legislative changes contained in s.56(15.1) of the *Workers' Compensation Act*.

Effective Date: January 1, 2021.

CARRIED