

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

<b>DATE:</b>	November 24, 2020
<b>PLACE:</b>	Zoom Video Conference
<b>TIME:</b>	8:30 a.m. to 12:10 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 & Innovation \*  
Marcela Matthew, Vice President, Millard Health & Special Care Services \*  
William P. Ostapek, Secretary and General Counsel \*  
Roxy Shulha-McKay, Vice President, Employee & Corporate Services \*

**ALSO PRESENT**

Leslie Henkel, Board of Directors' Secretariat

**GUESTS**

Laurent Charron, Corporate Controller, Financial Management (items 7 and 8)  
Donna Emsley, Manager, Investment Operations and Risk, Financial Management (items 7 and 8)  
Nadia Mursky, Manager, Financial Planning and Reporting, Financial Management (items 7 and 8)

\* excused for item 12

\*\* excused for item 12 (part 2)

## COMMITTEE REPORTS

### 6. Policy Committee

The committee chair provided a report on the committee's recent meeting.

#### 6.1 **Employer Accounts and Premium Policies Review:** **Business Test and Businesses Providing Support to an Industry**

During Phase II of a comprehensive review of employer account related policies, drafts of the substantive policy changes were open for online consultation for 60 days, October 1 to December 2, 2019. Two of the four substantive policy changes were approved by the Board of Directors at their meeting in January 2020. Initial stakeholder feedback on the remaining two changes, while supporting the intent of the recommendations, found some of the language unclear. WCB met with Industry Task Force representatives for suggestions and their feedback has been incorporated. The revised wording was shared with the Policy Consultation Advisory Group and the revised policies were brought forward for final approval.

The remaining substantive policy changes include:

1. adding a **business test** to policy to determine an individual's status as either a worker or business owner, and
2. Including a provision in policy around classifying **businesses providing support services to an industry**.

#### **Business Test**

WCB currently does not include a business test in policy. The policy change in draft Policy 06-01, Part II, Application 2 will codify current practice by adding a new question outlining criteria to determine an individual's status as either a worker or business owner.

If WCB determines that an individual is a worker rather than a business owner, under s. 16(2) of the *Workers' Compensation Act*, WCB can deem the individual to be a worker of their principal. This includes directors of incorporations determined not to be operating a business. This policy change will reinforce that incorporation alone is not a sufficient condition to determine that an individual is a business owner rather than a worker.

Incorporating a business test in published policy ensures better transparency and consistency in decision-making. A business test in policy promotes clearly defined rules for decision-making on new accounts. As this change codifies current practices, there is no impact to stakeholders. Procedures will ensure limited and incorporated companies are not automatically granted new accounts. Staff will be able to point to a clear policy reference that supports their decision.

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**The proposed change is cost neutral.**

### ***Businesses Providing Support Services to an Industry***

WCB currently does not include classification of businesses providing support to an industry in policy. Two new questions in draft Policy 07-01, Part II, Application 1 clarify that:

- An employer that provides administrative or strategic support to a related business (or group of related businesses) is classified in the same industry as those businesses.
- An employer that provides administrative or strategic support to multiple unrelated businesses is classified based on its own business activity.
- Administrative or strategic support includes, but is not limited to, activities such as coordination, marketing, management, information systems, and administration services.
- Franchisors are classified in the same industry as their franchisees.

This approach levels the playing field for all employers in the industry by ensuring all employers regardless of their legal structure are compared equally. This change is a clarification of current practice and does not represent a change to the way WCB does business.

Adding a new question in policy ensures transparency and consistent decision-making when classifying this type of business. The change will enhance employers' understanding of how we make classification decisions. The impact should be a better understanding of how we make decisions. Staff will be able to reference the published policy used to make their decision. Having clearly defined policy for these type of businesses could lead to fewer Appeals Commission decisions. As this change codifies current practices, there should be no impact to stakeholders.

**The proposed change is cost neutral.**

#### **MOTION**

2020/05/17

It was moved that,

The Board of Directors approve the draft policy applications, which include:

1. adding a *business test* to Policy 06-01, Part II, Application 2, and
2. clarifying how *businesses providing support to an industry* are classified in Policy 07-01, Part II, Application 1.

**Effective Date:** January 1, 2021

**CARRIED**

## 6.2 **Employer Accounts and Premium Policies Review: Non-substantive Changes**

In accordance with Board Resolution 94/02/09 (inconsequential amendments), Strategic Management Council approved non-substantive changes to employer accounts and premium policies (Policy 06-01, Policy 06-02, Policy 06-03, Policy 07-01, Policy 07-02, and Policy 07-03). During both phases of the comprehensive employer services policy review, many non-

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substantive changes were identified. Non-substantive policy changes update references in policy, correct grammatical issues, and adjust examples to generate a better understanding of the intent of the policies. The draft policies include updates to reflect legislation, clarifications of terms and coverage and updates to references, language and numbering.