

Manitoba Federation of Labour
Submission to the Chief Prevention Officer's Prevention Review
October 3, 2012

The Manitoba Federation of Labour welcomes the province-wide review of workplace injury and illness prevention. After a decade of change in Manitoba's workplace safety and health (WSH) system, this review provides an opportunity to review what progress has been made and what is left to be done. We agree with the province's assertion that this review provides an opportunity to build on the significant progress that has been made and to take Manitoba's workplace injury/illness prevention efforts to the next level.

The Manitoba Federation of Labour (MFL) represents 95,000 unionized workers across the province. For decades, the MFL has been the leading voice for Manitoba workers in promoting safe and healthy workplaces. Workplace health and safety is the issue area about which our members are most passionate and active. To support this concern, the MFL:

- holds an annual Health and Safety Conference providing training workshops from a worker perspective;
- nominates labour representatives for the Minister's Advisory Council on Workplace Safety and Health, the Workers Compensation Board, and the WCB Appeals Commission;
- works closely with the MFL Occupational Health Centre and SAFE Workers of Tomorrow to promote awareness of workers' health and safety rights;
- has active committees where health and safety activists work together to promote safe and healthy workplaces and to promote workers' interests at the WCB; and
- lobbies the provincial government and WCB for stronger workplace safety and health provisions.

The MFL offers the following input into your review of workplace injury/illness prevention:

1. Prevention Services - Where should they be housed?

- To date, there has been no central coordination of prevention services. This is a problem that needs to be addressed in Manitoba's next workplace illness/injury prevention plan.
- Prevention services could be housed at WCB, the Department of Labour or some other, new body:
 - The WCB is not a good fit because its primary orientation is to operate as an insurance company. Its activities are driven by the needs of its role as an insurance company. At most, its prevention role should be focused on preventing injured workers from becoming reinjured (by ensuring the hazard

that caused the original injury is addressed, and by ensuring the worker is not forced to return to work too early).

- Creating a new body would create unnecessary expense.
- The Department of Labour is the best fit because that's where the expertise lies and that's where there is political accountability for outcomes
- If housed in the Department of Labour, prevention services should be separated from enforcement operations in order to ensure employers do not avoid seeking prevention services for fear that it will trigger enforcement attention. That means having different staff for prevention than for enforcement and ensuring prevention staff do not have any enforcement powers. It also means signalling the separation by having prevention services in an organizationally separate formal silo (eg. a different division). It may also require having prevention staff report to a different manager, such as the Chief Prevention Officer.

2. Strong Enforcement is Critical to Strengthening Prevention

- Enforcement and prevention are not mutually exclusive. Although we believe prevention and enforcement should be operationally separate, we strongly believe that strong and effective enforcement is critical to strengthening prevention efforts. Strong enforcement creates a strong incentive for employers to comply with WSH rules, and creates an environment where workplace safety and health treated as important and essential issues. In short, strong enforcement fosters an appetite for better prevention.
- Enforcement and prevention can reinforce each other if prevention programs mirror the requirements of the WSH Act. For example, section 7.4 of the Act lays out the elements of a workplace safety and health program; prevention services and programs should mirror the elements laid out in the act by supporting employers to meet them.

3. There needs to be a dedicated revenue stream to fund prevention services

- It can be difficult to find funding for prevention efforts in n all areas of government because the benefits are not always immediate. Having a dedicated revenue stream for prevention efforts would protect prevention funding from competition with other programs.
- Because employers are responsible for ensuring safe and healthy workplaces, we believe prevention services should be funded by a special levy on employers, as part of the WCB premium system. Such a levy would support reduced rates in the future as prevention efforts reduce illness and injury claims.
- Because many employers do not fall under WCB, it may be necessary for a dedicated employer levy to be handled by the province. If so, we believe the levy should be paid by

employers because under the law it is employers who are responsible for operating safe and healthy workplaces.

4. The orientation of prevention services should reflect the law and not behaviour based safety approaches

- There is a tendency for training and prevention programs offered by employers and employer associations to follow behaviour based safety (BBS) approaches that blames workers for injuries. Instead of addressing the root causes of the illness or injury by identifying the hazards and eliminating or reducing them, BBS approaches emphasize the need for workers to work more carefully around hazards that should not be there in the first place. In short, BBS emphasizes working safely rather than safe work. BBS blames workers for workplace injuries and illness and places the locus of responsibility for workplace safety and health on workers rather than employers.
- The BBS approach is inconsistent with Manitoba's Workplace Safety and Health Act, which places primary responsibility on the employer to "ensure, so far as is reasonably practicable, the safety, health and welfare at work of all his workers" (section 4(1)). The Act requires employers to first and foremost focus on eliminating hazards before looking at mitigating risk and personal protective equipment.
- Clearly there is an important role for workers in an effective workplace health and safety system, but the almost exclusive focus on worker behaviour in BBS is inconsistent with the Internal Responsibility System's emphasis on active participation from everyone in the workplace, including management.
- For these reasons it is essential that more attention be paid to the design of workplace safety and health training programs to ensure they do not follow a BBS approach and are more consistent with the Manitoba legislation. Training programs should focus on eliminating and reducing hazards rather than adapting worker behaviour to work around hazards.
- Avoiding BBS approaches also means that training/education programs should be targeted not just to workers, but also to managers/supervisors and employer representatives on health and safety committees. Without adequate training, employers cannot live up to their legal responsibilities to maintain safe and healthy workplaces.
- Avoiding BBS approaches also means prevention program should help employers focus on their primary responsibility to eliminate hazards.

5. Industry/sector associations must be governed on a bipartite or tripartite basis with equal and meaningful labour representation

- For workplace health and safety training/education/prevention programs to be truly effective, it is essential that workers and their unions are meaningfully involved in their design and implementation. This involvement significantly improves their effectiveness by bringing the workers' perspective and direct knowledge of the workplace to the table. It also improves cooperation towards the goal of reducing workplace injury and illness.

- This means that if industry/sector associations and accreditation programs are to be assigned greater responsibility in Manitoba's injury prevention infrastructure, it is critical that they include meaningful representation from workers and their unions. Specifically, such industry/sector safety associations must be governed on a bipartite or tripartite basis with equal and meaningful labour representation.
- Industry associations driven by employers tend to adopt BBS approaches that emphasize workers working safely over creating safe workplaces. This tendency is reinforced when employers purchase services from associations. For these reasons we strongly oppose prevention services being provided by employer driven industry/sector associations.

6. Accreditation if necessary, but not necessarily accreditation

- WSH accreditation can be effective if done correctly, but it does not necessarily guarantee effective prevention programs. Accreditation can easily become a formal process of passing through prescribed hoops rather than truly making a workplace safer and healthier. If accreditation focuses on a checklist of what a prevention program looks like on paper rather than an audit of how a prevention program is actually functioning in practice, it will not necessarily reduce illness and injury in the workplace.
- Effective accreditation programs require significant resources on the part of both the accreditation body and workplaces. For this reason, we are not convinced that accreditation is worth the cost. We would prefer resources to go into supports for workplaces that are genuinely working to prevent illness and injury and into enforcement of WSH laws and regulations.
- If accreditation is to be pursued, we recommend that accreditation regimes closely mirror requirements in the Act. Otherwise employers would face duelling legal and accreditation requirements, creating confusion and increasing the compliance burden. This would not encourage a healthy attitude towards compliance on the part of employers.

7. An Excessive Focus on Time Loss Injury Rates

- The MFL firmly believes that continued progress on reducing workplace injuries and illness will require prevention initiatives to reduce their excessive focus on the time loss injury rate as the central benchmark for measuring progress. This focus is problematic for two key reasons.
- First, as we documented in our 2010 report, *An Investigation into the Incidence of WCB Claims Suppression* (<http://mfl.ca/content/investigation-incidence-wcb-claims-suppression>), the WCB's Experience Rating rate model creates significant financial incentives for employers to engage in claims suppression, a reality that causes time loss injury rates to be under-reported. As a result time loss injury rates cannot be relied on as meaningful measures of workplace injuries.

- Second, because the Experience Rating rate model confers financial benefits on employers that experience reductions in time loss injury rates, the focus on these rates often turns injury reduction initiatives into financially driven exercises that miss opportunities to make real, sustainable improvements in workplace safety and health. Measures that do not translate into immediate time loss injury rate reductions tend to be neglected in favour of short term financial gains. In the worst cases, claims suppression and overly aggressive return to work programs replace a true focus on injury reduction and illness prevention.
- We recommend instead a broader, more comprehensive approach that focuses on addressing hazards and risks rather than generating short term rate reductions and the corresponding financial benefits.

8. Manitoba's prevention services should target the unique needs of particularly vulnerable workers, notably young workers, newcomer workers, and workers in smaller workplaces

- Some groups of workers are particularly vulnerable to workplace injury and illness. These include young workers, newcomer workers, and workers in smaller workplaces. Prevention services should be designed to specifically reach out to these groups and to address their unique needs.

Young Workers:

- Given the disproportionately high injury rates for young and newcomer workers, there is a need for prevention programs targeted at the unique needs of these workers.
- The SAFE Workers of Tomorrow (SWOT) program has been extremely successful in educating young Manitobans about their workplace health and safety rights as they are entering the workforce. This program should be considered an essential part of the injury/illness prevention system, and should be expanded so that all high school students receive a face-to-face presentation from SWOT.
- The benefits to the WCB and the Province would likely exceed the cost of such an expansion. We also believe SWOT is a more cost effective way to provide a higher quality WSH message to more young workers than current youth awareness campaigns. If necessary, resources should be diverted from such campaigns to SWOT.
- To complement an expansion of SWOT, WSH should be made a required component of the high school curriculum. Knowledge of WSH rights and the basics of WSH is an essential life skill.
- Targeted training resources should also be made available to young workers in the workplace. British Columbia has adopted enhanced training and orientation requirements for new and younger workers. The training programs developed to meet these requirements would provide some guidance in developing young worker training resources for Manitoba. The expertise, experience and capacity of SWOT should be harnessed to develop and deliver these training programs. Such enhanced training requirements should also be adopted in Manitoba's WSH Act.

Newcomer Workers:

- Newcomer or recent immigrant workers are also particularly vulnerable to workplace injury and illness. Newcomers often lack knowledge of Manitoba’s health and safety rules. Limited capacity to speak the workplace language can make it difficult to communicate about job hazards and risks. Accessing workplace safety and health resources is difficult if materials are not available in newcomers’ first languages.
- For these reasons it is important that prevention programming:
 - provide information and training about workplace safety and health in the first languages that are spoken by current waves of immigration to Manitoba;
 - support Community-based outreach programs that target newcomer communities with information about workplace safety and health rights and resources; and
 - support the ongoing efforts of the MFL Occupational Health Centre and its cross-cultural committees in working with newcomer workers on workplace safety and health.
- In short, what is required is the equivalent of SWOT for newcomer workers.
- To support this effort, settlement service agencies should be engaged as access points to reach newcomer workers.

Smaller Workplaces

- Smaller workplaces often lack the know-how and resources to prevent workplace injuries and illness. Prevention services tailored to their unique needs should be provided. These services should be supportive and inexpensive, providing the expertise and resources that smaller workplaces often lack.
- Because WSH and prevention is not always high on the radar of smaller workplaces, prevention services targeted to their needs should proactively reach out to smaller employers, making the case for improved prevention efforts.

9. Union Training Programs are an Essential Component of Manitoba’s Workplace Health and Safety Infrastructure

- In examining the array of workplace health and safety training programs offered in Manitoba, it is important to remember the significant training programs offered by unions to their members. In addition to providing additional training opportunities, these union programs provide training from a worker perspective that is very different from the many BBS training opportunities offered by other organizations.

10. Public Awareness Campaigns set the context for Effective Workplace Prevention Programs

- In recent years, the WCB has greatly expanded its public awareness campaigns in the area of workplace safety and health. This effort has made a significant contribution towards the development of a culture of workplace safety and health in Manitoba.

- Making progress on workplace safety and health in the workplace is most effective when everyone in the workplace is committed to making progress and participates in the effort. Successfully securing such support and participation in a workplace is made easier when the broader public culture values and indeed expects safe and healthy workplaces.
- The MFL believes improving Manitoba's injury/illness prevention programming requires a continued commitment to broad-based public awareness campaigns that promote a culture of safety and health. This effort should continue until it becomes social unacceptable for workplaces to neglect workplace safety and health.
- We do, however, note that SAFE Work campaigns in recent years have focused too much on worker responsibility and not enough on the legal reality that employers have primary responsibility for WSH. Even if workers make up the majority of the audience for such campaigns, it is important to remember that every campaign communicates a message about how our WSH system is supposed to operate. Continued over-emphasis on worker responsibility sends an inappropriate message to workers and employers about roles and responsibilities in WSH. This problem needs to be addressed. A campaign promoting newly available public information about employer compliance with WSH laws would be a good start.
- Significant resources (in excess of \$1 million/year) are devoted to WSH public awareness campaigns. There should be a robust evaluation system to measure how effective such campaigns are in changing attitudes and behaviours with respect to WSH.

11. Workplace safety and health should be an essential component of vocational and apprenticeship training programs

- If workers are trained in safe work when they learn their trade/skills, they are more likely to expect and practice safe work when they enter the workforce. This training should include both general WSH information (such as WSH rights, the internal responsibility system, etc) and information specific to that vocation or trade.

12. Prevention and regulatory efforts should be guided by evidence and research

- To improve the effectiveness of prevention and regulatory efforts, they should be guided by evidence and research. This will require coordination and resources.
- Coordination: The current RWIP research fund is unfocused. The Chief Prevention Officer could be charged with responsibility for coordinating the allocation of research resources in Manitoba and identifying research needs. He would also have responsibility for reviewing WSH research from other jurisdictions and sources to determine how it can guide and inform Manitoba's prevention and regulatory programming.
- Resources: Resources from the RWIP program could be diverted to this coordinated research on the rationale that coordination will improve the linkage between research and

reduced workplace injuries and illnesses. The proposed WSH employer levy could also provide as source of funding for a coordinated research effort.

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