



SBCI UPDATE

March 2010

NEWSLETTER

MESSAGE FROM THE CHAIR

In this, my last Message to you as SBCI's Chair for 2010-11, I have several changes to report before looking forward to the months ahead. Damian Borrelli has stepped down from SBCI's Board of Directors. However, since Damian's term of office had only a few weeks to run, the Board has not replaced him. The members at the Annual General Meeting in April will elect a replacement.

Amongst the SBCI staff, Sheila Church and Maggie Zhou have both left us earlier this year. However, we are delighted that both Robbin Lavoie and Diyang Zheng have rejoined us after temporary breaks in service. Robbin is again heading our Health and Safety services while Diyang has rejoined our actuarial team, replacing Maggie.

In addition, we have further expanded our Attendance Support team with Kathleen Gratton joining us in early March.

I want to draw your particular attention to the article later in this Newsletter regarding a 2-day conference that SBCI is holding, April 8 and 9. Most years we run regional training and education sessions, but we have decided to revert to a major conference around our Annual General Meeting. I encourage everyone to attend if they possibly can. There is no charge for member school board staff.

Over the past month, we have launched two important initiatives both relating to employee benefits. Firstly, we are offering to carry out an audit of your insurance company's adjudication for payment of health and dental benefits. We have already started this work with two school boards. The Operational Reviews being carried out under Ministry auspices,

are recommending that boards have such audits performed.

Secondly, we have launched a group benefits consulting service to school boards, based on the work that we have been doing for member boards over the past few years and, particularly, on Wendy Achoy's great experience as a Group Benefits actuary.

I wish publicly to express my appreciation for the support of the Board of Directors in my year as Chair and, of course, to the staff who deliver such excellent services to Ontario school boards.

It has been an honour.

Ron Bender
Chairperson

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WSIB POLICY ON LOSS OF EARNINGS (LOE) BENEFIT ENTITLEMENT TO RETIREES

Scenario:

A retired worker, voluntarily leaves employment, receives pension benefits and does not intend to work any longer. The person is subsequently diagnosed with an occupational disease and is then granted full LOE benefits for up to two years from the date of diagnosis. If the ill person dies before the 2 year timeframe ends, survivor benefits are paid for the life of the survivor.

Several law firms and SBCI have challenged the WSIB's practice. The policy, Section 43(1) of the ACT, states that for LOE benefit entitlement to be considered there must be a "loss of earnings as a result of the injury..". WSIB frontline staff, management and WSIB Appeals Resolution Officers are upholding the payment of LOE benefit entitlement in the above situations. This is considered approved practice within the Occupational Disease Department at the WSIB and supported on appeal.

There are now a couple of WSIAT decisions (#250/09 and #1581/06) which clearly state that the WSIB Policy 18-02-02 "...does not apply on the facts...where the worker has been retired at the time of diagnosis". WSIAT decisions find that the WSIB has no statutory authority to pay LOE benefits in the circumstances and has granted the employer appeals.

There are several school board cases in the WSIB appeals system challenging the WSIB practice. SBCI has a few such cases. The matter was discussed with John Slinger, Chief of Operations at the WSIB. He committed to reviewing the matter in a letter dated June 23, 2009. In a

recent letter from Laura Bradbury, Commissioner, Fair Practices Commission dated December 10, 2009, Mr. Slinger has approved a change to the practice of compensating claims for workers who are diagnosed with long-latency occupational diseases after voluntary retirement. The change is effective Monday, December 7, 2009 and will apply to all new decisions from that date forward.

SBCI is contacting the Director of the WSIB Appeals Branch, Slavica Todorovic, to discuss the status of the cases that are currently at the WSIB appeals level pre-dating the change in practice as of December 7, 2009

VIOLENCE IN THE WORKPLACE GUIDE

Following many requests received from our member school boards, SBCI has updated its Violence in the Workplace Guide to comply with Bill 168, which amended the Occupational Health and Safety Act.

It is intended as a tool to help Ontario school boards implement preventative measures against violence in the workplace. SBCI has added a step by step approach and additional tools which school boards can follow to ensure compliance by June 15, 2010. It continues to focus on risk assessment and provides sample templates to guide the board. As well, a simple risk assessment matrix is added to guide the board through that formal safety process.

The development of this guide was overseen by Ontario school boards and was initially sent to Hicks Morley, Barristers and Solicitors of Toronto to ensure it meets all legal considerations.

We hope SBCI's members will take advantage of this tool and that it will meet their needs. The Guide has to continue to grow according to each school board's guidelines and other regulations. It is recommended that your internal documents related to violence prevention be added to this Guide.

For school boards who would be interested, SBCI offers the services of its Health and Safety consultants to present

the Guide and give advice on how to implement it.

For any further information or to share your comments, please do not hesitate to contact your Health and Safety Consultant at SBCI.

PREVENTION OF ACCIDENTS TO CUSTODIANS

Since 2006-07, the Health & Safety section in a SBCI's annual report to each school board has tracked injuries and provided analysis. This section of the report contains an analysis of incidents for each major employee group and it continues to show that Custodians are having far too many injuries.

Creative thinking and programme improvements are needed to help lower the risks and, as a result, the continued extremely high accident frequency rates for this employee group. In 2007, SBCI researched several best practices from across various jurisdictions and concluded that the WorkSafe BC's A Clean Sweep "Safe Work Practices for Custodians" nicely meets the programme need. It includes an excellent flipbook to give to each Custodian, plus a Leader's Guide CD. It was a success and many of the member boards have trained their Custodial Staff on these Safe Work Practices.

SBCI is relaunching A Clean Sweep, with the booklet yet again and interactive tools in the Leaders Guide on CD and hard copy that will assist any school board to train its own staff. Done in workshop fashion in groups no greater than 25, supervisors and trainers can walk Custodians through the safe work practices practically and help staff identify the hazards in doing their work.

It is our hope that these materials will become central to your campaign to lower the injuries that are affecting Custodians at your board. We would be pleased to assist with training on a "Train the Trainer" basis and will look to implement further programme improvements in the future. Contact your Health and Safety Consultant for more information.

SERIOUS AND WILLFUL MISCONDUCT

Section 17 of the Workplace Safety and Insurance Act states:

If an injury is attributable solely to the serious and wilful misconduct of the worker, no benefits shall be provided under the insurance plan unless the injury results in the worker's death or serious impairment.

This section of the Act was recently applied in a decision rendered by the WSIB in a claim for one of our member school boards.

In the case, an employee with a long history of WSIB injuries reported that she sustained a low back injury while lifting heavy boxes. On the form 7 submitted to the WSIB, the school board identified several concerns with the injury.

In September of 2008, because of the employee's history of WSIB injuries, the school board had undertaken a process of educating the employee on proper work techniques, with a view of reducing the risk of future injury. In particular, the training provided to the employee focused on proper handling of loads. The employee was also given specific instructions not to lift heavy objects.

When the employee reported the injury, she indicated that she did not want to perform the work in the way that she had been instructed, as it would take too long, so she chose to use equipment she knew was defective and sustained her injury. Because of the employee's actions, the school board objected to the claim indicating that they felt they had taken every reasonable precaution to provide the employee with the knowledge and tools to work safely, and that she chose to disregard these precautions with the result being a new workplace injury.

In assessing the available evidence, the WSIB Eligibility Adjudicator concurred with the school board and determined, in the entitlement decision, that the employee had wilfully chosen to perform a task that she knew was outside of her given precautions and could cause a new injury. Section 17 was applied and the employee's claim was denied.

This case demonstrates the importance of documenting your employee's training activities with regards to working safely and within their capabilities. It also demonstrates the importance of the internal investigation following an accident to clarify how the injury occurred and what the factors were that led to the accident. In this case, the school board was able to show the WSIB that it had taken the necessary precautions to limit a potential injury while at the same time uncovering in its accident investigation that the employee wilfully disregarded that training, resulting in an accident that the WSIB denied by applying Section 17 on serious and wilful misconduct.

PERSONAL ACT BY AN EMPLOYEE CONSIDERED FOR ALLOWANCE BY WSIB APPEALS OFFICER

An employee was on break and walked to the car to place personal items into the car. While in the parking lot the person fell which resulted in an injury. The Eligibility Adjudicator allowed the claim. On appeal by the school board, the Appeals Resolution Officer confirmed the allowance of the claim for the following reasons:

- In order to accept entitlement to a work injury, it must be determined that the injury arose out of and in the course of employment. The facts considered in support of this policy statement were:
- The employee slipped and fell on the walkway to the parking lot. This is considered a chance event under the policy.
- The location at the time of the injury was maintained and controlled by the employer.
- While the employee was on break, it is reasonable for the employee to take a break and even though the employee was taking personal items to the car, which was owned by the employee, the individual did not leave the employer's premises.
- The person was to be outside for a short period of time. This brief personal activity is considered incidental to the employment and thus the person did not remove

themselves from the course of the employment.

- Also, employees occasionally went to their cars to pickup and drop off personal items. This was an accepted practice. The supervisor never advised that this was not to take place. Therefore these acts were condoned by management.

The claim was allowed.

ONTARIO WORKPLACE SAFETY AND INSURANCE BOARD

The Auditor General of Ontario's Annual Report included a review of the WSIB's Schedule 1 unfunded liability. The WSIB established a plan in 1984 to eliminate the then unfunded liability. The target date for full funding of the system was 2014.

The Auditor General's report highlights the fact that the unfunded liability has risen to the highest level at \$11.5 billion as of December 31, 2008. As the original goal for full funding by 2014 will not be achieved, the new target date for retiring the unfunded liability is now 2022. The reason given for the substantial increase in the unfunded liability from a low of \$5.9 billion December 31, 2006 is being attributed to the low premium rates (revenue) in Ontario, the global financial crisis which impacted their investment returns and increases to benefits.

The WSIB Quarterly Financial results confirm that 2009 revenues continue to fall short of total benefit costs and other expenses.

MINISTRY OF LABOUR EXPECTS PROMPT REPORTING OF OCCUPATIONAL ILLNESS

A recent case of a public sector employer not complying with the requirement to report occupational diseases to the Ministry within 4 days has resulted in a fine of \$10,000 plus a 25-per-cent victim fine surcharge. This case is highlighted for SBCI members because of the potential for a similar scenario within a school board.

An Ontario hospital was informed that a patient who had just been admitted, had been in contact with scabies, a highly contagious skin rash caused by microscopic mites. The next day a surveillance protocol was implemented but workers had by then been exposed and two workers later became infected. The Ministry of Labour learned about the scabies outbreak from local media and investigated. The employer failed to advise the Ministry of Labour within 4 days of learning of the workers' illness.

HEALTH PROFESSIONAL'S REPORT (FORM 8)

WSIB is no longer setting up claims based solely on a Form 8. In the past, they would try to match a Form 8 with an existing claim. If no match could be found, a new claim would be set up and the employer would receive an automatically-generated letter which indicated a claim was set up by someone other than the employer.

Now, if there is not a match, WSIB will send the worker a letter directing them that, if they are claiming benefits, to either download a Worker's Report of Injury/Disease (Form 6) from the WSIB website or to call in to the Primary Adjudication area for assistance in making a claim.

The accountability of reporting accidents lies with employers and workers. Doctors are not legislated to file a claim – they are required to provide medical information. Most Form 8's are matched up with existing claims but for those that are not, WSIB staff spends valuable time trying to track down details only often to find out the injury is non-occupational and the doctor has sent in the Form 8, in error.

The time is better spent on making timely and accurate decisions on existing claims.

APPORTIONMENT OF COSTS OF SCHEDULE 2 IN AN OCCUPATIONAL DISEASE CASE

WSIAT Decision # 756/09 is a case where SBCI successfully represented a school board at WSIAT. WSIAT ordered the WSIB to remove two-thirds of all costs in the claim. The deceased employee was

exposed in the 1950s to asbestos while working for a Schedule 2 employer (shipping company now out of business). Following that work history, the person was hired by the school board. During that period of employment there was a brief exposure to asbestos.

The WSIAT panel looked at where the exposure to asbestos likely took place and directed that two-thirds of the costs be charged to the Schedule 2 shipping company and one-third to the school board.

As this is a precedent setting case for Schedule 2, there were no WSIB policies or procedures to deal with apportionment of costs between Schedule 2 employers pursuant to Section 94 of the ACT. They have now developed a process to remove the costs and the school board has received a substantial credit for costs already incurred. The WSIB is challenged to develop a process for removing ongoing monthly survivor benefit costs. SBCI continues to be in discussions with the WSIB on the process.

HAZARDOUS SUBSTANCE REGULATION BEING UPDATED

Greater protection of worker health is the goal in updating Ontario's occupational exposure limits (OEL's) for 36 hazardous chemicals including ethanol and polyvinyl chloride. In addition, 11 designated substance regulations are being combined into one in an effort to make it easier for employers to access and comply. All changes take effect July 1, 2010.

2010 SBCI CONFERENCE

SBCI will be hosting a conference on April 8 & 9, 2010 at the Hilton Garden Inn in Concord (Highway # 400 & Highway # 7 area). The 2 day conference will feature a variety of keynote and workshop presentations dealing with Health and Safety, Attendance Support, WSIB Claims Management and Actuarial Services. This conference will be relevant to school board personnel involved in Health and Safety, Disability Management, Human Resources and Finance. There is no fee for member school board employees to attend the conference but space is limited. School Boards will be responsible for the cost of

travel and accommodation for their staff attending the conference.

The following is a summary of some of the sessions we are looking to offer.

Health & Safety

- Bill 168 – Prevention of Violence and Harassment – Speaker Dilys Robertson, Author and well known Health and Safety Consultant
- Panel discussion – “Achieving Health & Safety Success for School Boards”

Attendance Support

- Mental Health Overview & Strategy
- Attendance Management Overview & Operational Reviews

WSIB Claims Management

- Claims 201 – Strategic Thinking, Planning and Documentation from Day 1 of a Claim – Understanding the Big Picture.
- High Cost Claims – Experience and Lessons Learned from School Board Re-Insurance/Assistance Claims

Actuarial Services

- Overview of existing services and introduction to new services of Health & Dental Audits & Benefit Consulting.

If you have any questions concerning the conference please do not hesitate to contact chris@sbc.org.

MINISTRY OF LABOUR INSPECTION AND THE WSIB

With increasing frequency, Ministry of Labour Investigators are being called into schools where reports have been made regarding unsafe work environments arising from workplace violence. We've seen several instances where Educational Assistants and Teachers have used their rights under the Occupational Health & Safety Act to refuse what they believe to be unsafe work.

The issue relates to special needs students and the sometime violent behaviours these students exhibit towards school board staff and other students. School boards are

finding it increasingly difficult to satisfy the requirements under the Education Act which grants parents the right to have their students with special needs educated in public schools while ensuring a safe workplace for all students and staff. School boards have seen an increase in the frequency in “Aggression” claims due in part to a more vigorous approach by EA's and Teachers to report all incidents of aggressive or violent behaviour. This has led to an increased frequency of workplace investigations by Ministry of Labour staff.

Bill 168, *An Act to amend the Occupational Health and Safety Act with respect to violence and harassment in the workplace and other matters*, will significantly impact school boards in the province of Ontario. Bill 168 received Royal Assent on December 15, 2009. The amendments to the *Occupational Health and Safety Act* will, therefore, come into force in six months, on June 15, 2010. At that time, school boards will be required to have the necessary policies, programs, measures and procedures in place.

The ramifications are that greater scrutiny will be placed on all acts in the workplace that are perceived to be violent, including those of special needs students where outbursts are not uncommon. We have already seen an increase in WSIB stress claims due to Teachers and EA's filing claims when having to deal with their special needs students, something they were trained to do and which forms part of their regular duties as Special Education Teachers and Educational Assistants. Increased vigilance on the part of school boards will be required to ensure that appropriate practices are put into place and that staff follows the required safety protocols.

SBCI has developed tools and resources to assist school boards become compliant with the change in legislation. Please contact us to discuss how may assist you.

ATTENDANCE SUPPORT PROGRAMME: WELCOME TO THE NEW YEAR

We would like to welcome all of our Attendance Support clients to a new year. We look forward to continuing our working relationships with each of our school boards and to developing new

project plans for each of the Disability Management and Attendance Management Programmes.

In developing and updating the plans, school boards are recognizing the link of effective absence tracking and reporting to the success of an Attendance Support Programme, and the majority of school board clients are reviewing the benefits of Parklane's Attendance Management Module. As SBCI supports the need for effective absence tracking/reporting and analysis we are for the second year offering our existing or new Attendance Support clients the ability to obtain this module through SBCI at no initial cost or set up fee. If our clients decide to utilize this module, SBCI will provide support along with Parklane to ensure a successful transition as part of our services.

As school boards progress through these plans we will also be introducing and incorporating our newest wellness and mental health strategies for school boards. Our goal as always, is to help school boards move towards organizational excellence through the development of healthy workplaces.

The Attendance Support team has been busy developing the newest components for the Wellness and Mental Health Strategy and is excited to share these developments with each of our school board clients in 2010.

As the Attendance Support Programme continues to expand and as we look forward to welcoming new clients, we are planning to increase the staff complement in our Attendance Support Department within the year in order to maintain excellent service levels for all of our clients.

If you would like further information on SBCI's Attendance Support Programme, please contact Lynn Porplycia, Attendance Support Practice Leader (lynn@sbc.org).

SERVICES DE SOUTIEN À L'ASSIDUITÉ

Nous souhaitons la bienvenue à une nouvelle année à nos six conseils scolaires français recevant nos Services de Soutien à l'Assiduité! En 2010, nous attendons avec intérêt une année très productive en

continuant à développer davantage nos rapports professionnels avec vous, et en élaborant vos programmes de gestion des invalidités, de gestion de l'assiduité et de bien-être afin de créer un milieu de travail sain pour vous, vos employés et vos étudiants.

Nous faisons face à une année pleine d'activité! En tant que toujours, n'hésitez pas à me contacter avec vos questions : Shoba Thomas, Coordinatrice Bilingue en Soutien à l'Assiduité.

PARKLANE UPDATE

Parklane Workshop

SBCI's annual Parklane workshop was held in November with 42 participants from school boards. Parklane staff facilitated two workshop streams on utilizing Parklane for WSIB Management and Health and Safety programs. Participants exchanged ideas and learned new tips on how to utilize the software. Thank you to the Durham District School Board for hosting this years' workshop !

Electronic Form 7 Submission to the WSIB

Many of our member boards are utilizing the Electronic F7 submission from Parklane to WSIB and have reported positive feedback on the process. If you haven't set up your system yet to utilize this feature, Parklane can provide you with a document outlining the process and requirements necessary.

Sending Form 7's to SBCI.

To avoid faxing or mailing copies of Form 7s to SBCI's office, many of our boards are converting their F7 to a PDF document and emailing it to SBCI. Further any documentation can be scanned and emailed to SBCI.

SURFING THE NET

Although it is under the heading "2010 Premium Rates", the maximum insurable earnings ceiling for 2010 is \$77,600. This is an increase from \$74,600 in 2009. There is a link to the "Changes to the Maximum Insurable Earnings Ceiling" on

the WSIB website which provides some background as to how the rate is set.

Changes to the Hearing Devices policy 17-07-04 implemented an approved amount for the purchase of all hearing aids. The cost of the entire hearing aid, including any features, will have an approved amount of up to \$1,400 (or \$2,800 for two bilateral hearing aids). These changes are effective November 23, 2009. In addition, every year, WSIB reviews and sets rates after conducting an external survey of costs for each specific rate with some exceptions – the rates are listed in policy 18-01-05. Among the benefit rates that increased on January 1, 2010 are the Personal Care Allowance – General, Personal and Skilled rates. Increases were approved by WSIB to ensure the set hourly rates reflect the actual cost of purchasing these labour services in the community.

Professional and non-professional witness fees have been removed from the Table of Rates and as of January 1, 2010, the WSIB's Appeals Branch will set, administer and maintain witness fees.

Some of the WSIB's Appeals Resolution Officers' decisions are being published on the Canadian Legal Information Institute (CanLII) website. The Q&A document attached outlines this is in response to requests from workplace parties and the Fair Practices Commission. The link is as follows: [Canadian Legal Information Institute \(CanLII\) website](http://www.canlii.org).

All of the above information can be found on the WSIB website and the link is www.wsib.on.ca

The Fall 2009 issue of WSIAT's newsletter, In Focus, outlines the appointment of new Tribunal members as either part-time or full-time Vice-Chairs. The following new on-line Medical Discussion Papers are now available on their website: Allergic Contact Dermatitis; Irritant Contact Dermatitis; Coronary Artery Disease; Myocardial Infarction; Evidence for Smoking Causing Lung Cancer; Trauma and Inflammatory Arthritis. Medical Discussion Papers are a good resource for understanding injuries and diagnoses and their causes. The link to the WSIAT website is www.wsiat.on.ca

CALENDAR OF EVENTS



Board of Directors Meeting:

April 8, 2010

Annual General Meeting:

April 9, 2010

SBCI 2010 Conference:

April 8-9, 2010

SBCI SERVICES

TOTAL EMPLOYEE ATTENDANCE MANAGEMENT & SUPPORT (TEAMS)

- Attendance Support –
- WSIB Claims Management –
- Health and Safety –
- Wellness –

ACTUARIAL

- PSAB –
- Sick Leave Utilization –
- Health and Dental Audits –
- Group Benefits Consulting –

SBCI STAFF

Brian Brown, Chief Executive Officer
Mary Luck, Senior Claims Manager
Darlene Iwaszko, Claims Manager
Christopher James, Claims Manager &
Lawyer
Kelly Melanson, Claims Manager
Robert Orrico, Claims Manager
Louise Bellamy, Financial/Office
Co-ordinator
Lisa Chaplin, Claims Analyst
Melissa Hewit, Parklane Assistant
Monica Wroblewska, Executive Assistant
Audrey O'Connor, Data Entry Clerk
Neera Ramkorun, Data Entry Clerk
Rolly Montpellier, Marketing Consultant
Robbin Lavoie, Sr. H & S Officer
France Germain, H & S Specialist
Lynn Porplycia, Attendance Support
Practice Leader
Byron Franson, Attendance Support
Co-ordinator
Kathleen Gratton, Attendance
Support Co-ordinator
Cheryl Luke, Attendance Support
Co-ordinator
Shoba Thomas, Bilingual Attendance
Support Co-ordinator
Wendy Achoy, Chief Actuary
Brad Bowen, Actuarial Analyst
Joseph Chan, Actuarial Analyst
Joe Huang, Actuarial Analyst
Ellen Xu, Actuarial Analyst
Diyang Zheng, Actuarial Analyst
Vicky Gao, Programmer/Analyst

SBCI BOARD OF DIRECTORS

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