

# PRINCE EDWARD ISLAND LEGISLATIVE ASSEMBLY



Speaker: Hon. Francis (Buck) Watts

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## Standing Committee on Communities, Land and Environment

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**DATE OF HEARING:** 27 JULY 2017

**MEETING STATUS:** PUBLIC

**LOCATION:** COMMITTEE ROOM, J. ANGUS MACLEAN BUILDING, CHARLOTTETOWN

**SUBJECT:** BRIEFING ON WORKERS COMPENSATION BOARD OF PEI

**COMMITTEE:**

Kathleen Casey, MLA Charlottetown-Lewis Point [Chair]  
Dr. Peter Bevan-Baker, Leader of the Third Party, MLA Kellys Cross-Cumberland  
Hon. Heath MacDonald, Minister of Economic Development and Tourism  
Sidney MacEwen, MLA Morell-Mermaid  
Pat Murphy, Minister of Rural and Regional Development  
Hal Perry, MLA Tignish-Palmer Road  
Bradley Trivers, MLA Rustico-Emerald

**COMMITTEE MEMBERS ABSENT:**

Richard Brown, MLA Charlottetown-Victoria Park

**MEMBERS IN ATTENDANCE:**

none

**GUESTS:**

Workers Compensation Board of PEI (Stuart Affleck, Luanne Gallant, Kate Marshall); Department of Workforce and Advanced Learning (Constance Robinson)

**STAFF:**

Emily Doiron, Clerk Assistant (Journals, Committees and House Operations)



The committee met at 10:00 a.m.

**Chair (Casey):** Good morning, everybody.

Welcome to the Standing Committee on Communities, Land and Environment. I'm Kathleen Casey and I'm the Chair of the committee. Welcome, members, to the committee. Welcome, guests, and welcome to those who are visiting with us this morning. Thank you for your patience while we were experiencing a few little technical glitches but we're underway, Sean, and we'll continue on.

Today we're welcoming – the agenda is before you, members. Maybe what we'll do is go through the approval of the agenda.

Approval of the agenda? Everybody okay?

**Dr. Bevan-Baker:** (Indistinct)

**Chair:** Peter, thank you.

We will continue on to number three on the agenda which is the briefing of the Workers Compensation Board and I'd like to welcome Luanne Gallant. Luanne, I'm going to turn the meeting over to you. We'll ask you to do your presentation. Normally what happens is we follow it up with questions following your presentation, but I'm sure you'll take questions as you go along if any of the members have something off the top of their head. I'm going to turn the floor to you to introduce the team at the table and the floor is yours.

**Luanne Gallant:** Okay, thanks.

**Chair:** Thanks.

**Luanne Gallant:** Thank you very much.

Thank you for having us here with these to present to you this morning.

We brought a package. In front of you is our annual report, our strategic plan, as well as the presentation that we're presenting this morning.

To my left is Stuart Affleck. He is the chair of the Workers Compensation Board, and to his left is Constance Robinson. She is the director of labour and she is here this

morning because, if, in the case there are any questions about the WCAT process and that's independent of the WCB board, so she is here in case there are any questions. To my right is Kate Marshall, who is the director of workplace services.

**Chair:** Welcome.

**Luanne Gallant:** Thank you.

The presentation this morning will, I believe, may take about a half hour. There's quite a bit of detail in that and as Madam Chair mentioned, we welcome questions and hopefully there will be room for questions at the end. I understand we have approximately an hour on the agenda. Is that –

**Chair:** Sounds right.

**Luanne Gallant:** I'll begin.

The workers compensation – I want to give a little background on how we came to be – the workers' compensation coverage protects Island workplaces by providing compensation and benefits and services to workers who experience workplace injury and illnesses.

Before the workers compensation system was established, workers and employers had limited protection from the impacts of workplace injuries and illness. Workers, those who could afford it, could use the legal system to sue their employers, but if the worker contributed to the accident in any way they had no recourse. Conversely, if a worker's lawsuit was successful, that could result in an employer being forced into bankruptcy.

Over a hundred years ago, Justice William Meredith proposed that historic compromise in which workers gave up the right to sue their employers for a guaranteed protection from loss of income regardless of fault.

Adopted in PEI in 1949, the Meredith Principles underlie all workers compensation systems in Canada. So, the Meredith Principles are the foundation of the Workers Compensation system in Canada, where it's a no-fault compensation. That means that workers are paid benefits regardless of how the injury occurred. The worker and the employer waive the right to

sue; there is no argument over responsibility or liability for the injury.

There's a security of benefits. This means a fund is established to guarantee that money exists to pay the benefits. There's collective liability and this means that employers covered by the system share liability for the workplace injury insurance. The total cost of the compensation system is shared by all employers. All employers contribute to the common fund and financial liability becomes the collective responsibility. That's what that means.

Independent administration: this means that the organization that administers the workers compensation insurance is separate from government.

Exclusive jurisdiction: this means only workers compensation organizations can provide workers compensation insurance. All compensation claims are directed solely to the compensation board. The board is the decision-maker and final authority for all the claims.

The Workers Compensation Board: the board protects workers and employers by administering the *Workers Compensation Act* and the act which is a no-fault employer insurance; it's 100% employer-funded. You'll see later in the presentation I'll reference the accident fund. Employers are protected from law suit; workers receive medical, financial and rehabilitation services and employers and workers have the assistance in early and safe return to work.

As well, under the WCB board, we have the *Occupational Health and Safety Act* to help keep the workplaces healthy and safety through education, enforcement and monitoring.

The functional structure of the Workers Compensation Board and the system is government overall has the responsibility for the legislation and appointments to the Workers Compensation Board, the CEO and the OHS Advisory Committee. The function of the workers compensation operations is governed by our board of directors who provide governance and oversight and the OHS Advisory Council who advises on OHS legislation, and the workers compensation operations are responsible for

workplace safety, provision of compensation and benefits to injured workers, management of the accident fund and a mechanism to appeal initial claim decisions. That is called internal reconsideration.

The Department of Workforce and Advanced Learning, where labour sits, is responsible for the external appeals system which is funded by the accident fund and it is an independent body of the Workers Compensation Board.

The board of directors provides governance and oversight to the Workers Compensation Board. Members are appointed, as I noted, by government to represent the interest of workers and employers. Their responsibilities include: establishing policies, programs and a strategic direction of the board, approving budgets and appointing financial auditors and recommending amendments to the *Workers Compensation Act*.

Over the past number of years a lot of work has been done with the board of directors relating to governance. To this end, the board of directors have an enhanced focus on the overall policy direction, statistical indicators and evaluation, to determine that the board is accomplishing what it is intended.

The statistical indicators analysis is currently underway with a recent hire of an information specialist at this year's August planning meeting. One of the agenda items is to review statistical indicator analysis and evaluation. Other agenda items that are at our annual board planning would be policy direction, our claims management model, shifting the culture for how WCB manages claims, and with our recent hire of a position of service quality coordinator we certainly are working towards that initiative.

As well, the WCB conducts worker and employer surveys on a bi-annual basis and the board has received high satisfaction rates; 80.9% in the 2015 employer survey results and 71% for the injured worker survey results in 2016.

The most recent injured workers survey in 2016, although good results, provided information to support how we can improve service for the injured worker. We

responded to these results and have established the service quality coordinator role with the goal to enhance the culture of caring in providing service to our clients.

We're looking at more emphasis on clients feeling valued, increased response time, more face-to-face with our clients and more education and information sharing on why decisions are being made.

**Chair:** Luanne, just excuse me for a minute. Peter Bevan-Baker had a question. Do you want to ask it now or do you want to wait until the end?

**Dr. Bevan-Baker:** May I ask it now, if that's possible – if that's all right.

**Chair:** Sure.

**Dr. Bevan-Baker:** Thank you, Chair. Thank you all for being here.

You used a phrase there, Luanne, that I'm interested in. You said that WCB is shifting the culture of how you manage your claims. Now, you'll be fully aware, I'm sure, of the Alberta report that was recently –

**Luanne Gallant:** (Indistinct) yes.

**Dr. Bevan-Baker:** – released where they also recommended a shift to what they call a worker-centered system. Is this the same sort of approach that you're imagining?

**Luanne Gallant:** We are imagining that similar type of approach or same, and we recognize that, actually, before the report came out, we recognized that based on feedback we received and we hired a service quality coordinator. One position we hired in May and it's in my notes here, and the one we hired in June. So we have those in place right now and the plan for that position is to change the culture of how we manage our claims, yes.

**Chair:** Peter Bevan-Baker.

**Dr. Bevan-Baker:** Thank you, Chair.

In the Alberta report, they recommend that a substantive review be done of WCB every five years and in Nova Scotia the recommendation is every four years. Can you tell us when the last time was that a

comprehensive review was done of the PEI WCB?

**Luanne Gallant:** There was a legislative review in 2012.

**Dr. Bevan-Baker:** Of the act?

**Luanne Gallant:** Yes, of the act. But –

**Dr. Bevan-Baker:** Of the offices itself and the functioning of WCB – when was the last time that a public review or something of that nature was done?

**Kate Marshall:** I think 2006 there was an operational review by an external company.

**Dr. Bevan-Baker:** External? Okay. Did that include public – I'm sorry, Chair. I should go through you.

**Chair:** Yeah, sure. No. Go ahead.

**Dr. Bevan-Baker:** Did that include an opportunity for public input or was that –

**Kate Marshall:** I'm not sure if it did or not. We would have to go back to the report to –

**Luanne Gallant:** We could get back to you on (Indistinct)

**Dr. Bevan-Baker:** Thank you, Chair.

**Chair:** Thank you.

I'll turn it back to you.

**Luanne Gallant:** Thank you.

The OHS advisory council provides advice to the WCB board on health and safety matters throughout the province and proposed revisions to the legislation, and members are appointed by government to represent the interest of workers, employers and the public.

The WCB funding, it is a collective liability system bringing stability and protection to the workplace by providing coverage where cost is shared by all employers. Employers' participation is mandatory except for the excluded – any areas excluded by the regulation; for example, the fishing – this fishing industry. The system is currently 100% funded by employers. Employer

premiums are varied based on industry payroll and accident experience. Assessment rates are tied to accident experience of the industry group and there is flexible payment options to suit employer business needs like annual, semi-annual, seasonal, monthly, and the average assessment rate has decreased by over 25% since 2002. We are currently at \$1.70. The WCB is currently fully funded, in a fully-funded position.

Entitlement of benefits: entitlement positions are based on the worker, employer and health care provider information. Wage replacement benefits are non-taxable and based on 85% of net pre-injury wages to a maximum insurable earnings of \$52,800, and that was for 2017. Medical aid benefits such as hospital services, health care treatment and transportation and medication costs would be covered. Premiums paid by employers create the accident fund out of which the cost of the workplace injuries are paid. The WCB accept over 90% of claims for workplace injuries and illness.

One of the challenges the board has for injured workers is the determination of work-related injuries versus pre-existing conditions and conditions related to aging; for example, the normal disease process.

With an aging demographic and an aging workforce, this can create additional complexity in claims and is an area that WCB needs to spend more time in educating and keeping abreast of how we manage these claims.

As we move forward in this changing culture, policies are being reviewed with this lens. We also have return-to-work planning. Benefits include a broad range of services aimed at safely and timely return to work. The return-to-work can often be complex and barriers to return to work can be multi-factual. Literature and evidence support that it is healthy to be at work and that the longer someone is away from the work place the more difficult it is to return to work. WCB strives to ensure that the workers recover at work where possible.

**Chair:** Luanne, before you move on, Brad Trivers has a question.

**Mr. Trivers:** Thanks, Chair.

I thought I'd ask this now.

**Chair:** Yes, sure.

**Mr. Trivers:** It's a judgment call on whether (Indistinct) or not, but you mentioned the average assessment rate has decreased.

**Luanne Gallant:** Right.

**Mr. Trivers:** Which is a good thing from an employer perspective, of course very good. I was wondering how you were able to achieve that decrease. Is it because there's less money being paid out to employees or less claims being filed? Or how does that work? Are there more people in the system? How would you achieve that decrease?

**Chair:** If you could just identify your name so that when we're reading through the minutes we'll know who is speaking.

**Kate Marshall:** Yes, Kate Marshall.

**Chair:** Thank you.

**Kate Marshall:** The average assessment rate is a complex calculation based on a number of factors, one of which is investment income. The accident fund is invested and so over the last number of years those investments have done very well and that's one of the main reasons why we're able to reduce the assessment rate. In addition to our reduced assessment rate for employers, we've actually increased the level of benefits for workers.

We've eliminated, and I know Luanne will touch on this, but we've eliminated the wait period and we've increased the benefit rate from 80% of net to 85%. Really, the reduction is mainly a result of the investment income doing well.

**Chair:** Brad Trivers.

**Mr. Trivers:** You're saying, basically, you have taken the funds that you've collected from employers and you have invested them wisely and done well on those investments so that the rate that employers have to put into the fund has been lowered?

**Kate Marshall:** Yes, and we have also focused – and you'll see in our strategic plan

– focused on creating a culture of safety, which obviously reduces the number of injuries, which in turn can reduce assessment rates.

**Mr. Trivers:** I'm curious, and maybe that's in here and maybe you're getting to it, but how much is the fund – is in the investment fund right now?

**Kate Marshall:** I don't know the answer to that one.

**Luanne Gallant:** (Indistinct)

**Stuart Affleck:** (Indistinct)

**Luanne Gallant:** Yeah, \$248 million.

**Mr. Trivers:** \$248 million.

**Stuart Affleck:** We're about – right now on a smooth average, we're about 138% fully funded.

**Kate Marshall:** And that is to pay the costs of current claims and future claims.

**Chair:** Brad Trivers.

**Mr. Trivers:** Just one last question on this: What sort of investments have you invested that \$248 million in? I'm not trying to get any investment tips here, just curious.

**Luanne Gallant:** Our investments, we collaborate with New Brunswick around our investment. Our portfolio is invested with New Brunswick's portfolio. New Brunswick uses – their investment, New Brunswick, they have actuaries and they have a number of experts that look after that portfolio.

**Stuart Affleck:** Basically what we've done, Brad, about 20 years ago the workers compensation of Prince Edward Island decided to join with their fund with New Brunswick because they had a bigger pool. There are advantages, also, when you invest that fund, the bigger the size portfolio the less costs you have to fund that.

So, if you remember, three years ago we got overfunded. We have a policy that tells us where we have to try to be with that fund because we have a responsibility as a board to make sure there's sufficient funds in that fund to look after all injured workers in to

perpetuity okay? There has to be enough there on a go-forward basis. If somebody is injured for life there's got to be money in that fund to make sure that they're taken care of.

In 2013 – if you remember – we refunded. Because we were even over-funded, we refunded 13.5 million to the employers to try to bring the fund back down. We're now in a position, again, where the board is going to have to review what we do with our funding position and that's now in process and there will be a recommendation come to the board this fall on how we handle that.

But there have been other benefits given – like Luanne has said and Kate – safety – in my eight years just as a sidebar, when I came on workers compensation eight years ago – what I see out in the community and safety culture and safety consciousness has risen significantly over the last eight years. I think that all helps towards what it costs to operate. If that helps you any.

**Chair:** Brad.

**Mr. Trivers:** I mean it's safe to say that you're using investment vehicles like stocks and bonds and mutual funds, but at a risk level that allows you to fulfill your mandate, basically.

**Kate Marshall:** Right.

**Chair:** Heath MacDonald.

**Mr. MacDonald:** Just in reference to that, Stuart, obviously the aging in demographics is going to play a critical role here in the next 10 to 15 years. When you're reviewing your rebates, your rebate program, possibly back to employers again, if that's what your intention is, is there any connection to health in this regard through WCB and that analysis as far as working with them in line? I mean we all know how health care is going, it is aging in demographic and it is migration of retirees to PEI. But, is there any combination there? Is there any thought process in relevance to health?

**Luanne Gallant:** You mean Health PEI?

**Mr. MacDonald:** Health PEI.

**Luanne Gallant:** Yes, we actually are collaborating with Health PEI. We began that work in 2016, I believe, where we have a comprehensive collaborative approach with Health and a steering committee struck – as well a working committee – and we’re currently in the middle of a pilot with Health PEI with a specific location. What we’re working with them on is safety and prevention, education, early and safe return to work, recovery at work and there’s been a lot of education with that group. We recognize the number of health claims with our board is about 26%, so we saw a need to really work with them to help reduce to make the workplace safer and healthier. We’re in the middle of that and that initiative is moving along and they are in the middle of a pilot on prevention and safety and early return to work.

**Chair:** Heath, did you have another question?

**Mr. MacDonald:** Just a little bit of a supplementary in regards to returning to work when you’re dealing with an aging demographic obviously, and sometimes they can’t return to that position. At that age, if it’s 55 or 60, is there anything in relation to the education side where they are retrained? That’s what I hear in the communities.

**Luanne Gallant:** We have – it’s actually later on in the presentation.

**Mr. MacDonald:** Okay, I’m fine with that.

**Luanne Gallant:** We do have a comprehensive of a bulk rehab program.

**Chair:** We can wait until we get there.

I have one more question from Sidney MacEwen.

**Mr. MacEwen:** Thank you Kathleen, Chair. Thank you all for coming.

I just want to jump in on what Heath was talking about, just about the aging demographics and of course, I know as MLAs, we all hear the examples of WCB benefits being cut off at age 65. Can you explain how that works at that age?

**Luanne Gallant:** I’ll give Kate (Indistinct)

**Kate Marshall:** Our legislation speaks to wage loss benefits terminating at age 65. Obviously, I wasn’t around when the legislation was written. But I imagine that the reason for that is that that is kind of in conjunction when the average person would retire.

The age that someone is when they have their injury is obviously something that we have to consider. We certainly consider that in planning. Back to the Hon. Heath MacDonald’s point, we do consider that when we’re planning for the outcome of that claim. If we’re managing a claim for someone who is 60-years-old and who works in a heavy environment, then that’s obviously a real consideration when we’re thinking about retraining someone or what their capacity would be to retrain. We have an extended wage loss benefits program and that’s an option that we have.

If locational rehabilitation is not a feasible option as a cost perspective, or just from a personal perspective, then we have extended wage loss benefits program.

**Chair:** Sidney.

**Mr. MacEwen:** Thank you.

Are we looking at increasing that, like from 65 to older now that demographics show that people are working longer?

**Kate Marshall:** We haven’t considered that as yet, no.

**Chair:** Sidney.

**Mr. MacEwen:** You say it’s in the legislation so would that be a government spot to initiative?

**Luanne Gallant:** I know we don’t have that on our priority list of the act. But I know we did talk about the age because as we’re all aware with CPP, with that change in age that that should be something that we, as a board, should be reviewing and considering. That would be part of when we do our annual policy review, like what’s happening out there and kind of keeping abreast of what’s happening in Canada and other jurisdictions and so on. We recognize that there has been a change for the Canada Pensions. That is something we would want to be reviewing.

**Chair:** Sidney MacEwen.

**Mr. MacEwen:** Thank you.

If a person starts collecting their CPP, they're automatically – WCB benefits automatically stop, is that correct?

**Kate Marshall:** No.

**Mr. MacEwen:** So, you can get both at the same time?

**Kate Marshall:** Yes.

**Mr. MacEwen:** You say it's not on your priority list, but would you recommend that to government?

**Luanne Gallant:** That is something that we would need to take back to the board and discuss. We'd have to do more background; we'd need to do a review on that. It's something certainly that we've talked about, but we haven't taken it to the board to date.

**Chair:** Sidney.

**Mr. MacEwen:** Are there other examples across the country where they have made a move?

**Luanne Gallant:** We did do a jurisdictional review on that and we're not aware of that to date because we have done a review. But the question we still need to ask is: What is your plan as well?

**Chair:** Thank you.

Peter Bevan-Baker.

**Dr. Peter Bevan-Baker:** Thank you, Chair.

I'd like to follow up on something that Brad mentioned about the fund and the fact, obviously, it's a good thing that we're fully – in fact, we're more than fully-funded, 130 something per cent, as you said, Stuart. But as we all know with investments that that can change.

Two years ago in 2015, indeed you rebated over \$13 million to employers. I'm wondering – given that the Alberta report recommends ending that practice, whether there were any other options that you explored for the use of those excess funds,

putting money into research and development, just leaving in the fund for a rainy day, for example. I'm just wondering what other options – if any – you considered?

**Luanne Gallant:** When we looked at the 2015 surplus distribution we did discuss – we identified industries that were maybe their safety and prevention was higher and we did discuss some of those options about setting aside money for that. It didn't come to attrition at that time. It didn't happen, but we did actually discuss that in 2015.

**Stuart Affleck:** The other point I might raise on that – is it okay if I – Peter?

**Dr. Bevan-Baker:** Yes, please.

**Stuart Affleck:** Stuart – I'm sorry, Stuart.

**Chair:** Thank you.

**Stuart Affleck:** I'm sorry.

**Chair:** The reason for identifying is that when Hansard is writing it down, they will be able to attribute the remarks that you make to you.

**Stuart Affleck:** When we did the 2013 rebate, at that time –

**Dr. Bevan-Baker:** 15.

**Stuart Affleck:** 15, rather – when we did that, we also then way back when we were under funded – when I say we, the board was underfunded. There was a meeting between workers and employers and it was a recognition that we had to become – workers compensation had to become fully funded and workers at that time gave up a three-day – they went to three-day waiting period before they got any benefits, okay?

The employers agreed that there had to be increase in rates. Once we became fully funded, there was a recommendation to the province that we change and give one day back and that was prior to 2015. Then there was still a two-day waiting period, so then the year that we did the refund we recommended to government that we give the other two days back; that they had – yes, so that in a way was a benefit to – we didn't give them anything that they didn't have.

We gave them back what they gave up to get us back to a fully funded position.

The other thing that has happened is that we have introduced a new – which is a policy that we don't know what impact it's going to have – is our psychiatric and wellness policy, which we just introduced, which is going to cover – introduce the whole thing about PTSD. We have those issues, so our fund is a conservatively-managed fund. We want to be very up front and say that because some of the things that are coming down the tube that we really don't know what could happen in two years' time – those are benefits, I think.

The other thing is – I was saying to Luanne this morning – with the two new people we hired to try to do a better job in connecting with our workers. Those are more staff. It may not look like a benefit directly to the worker, but it should be a benefit in the way the process carries on. The board is sensitive that this organization, it's not me and you; it's worker and employer. What we try to do when we form our policy is to try to find a balance between that and on the investment fund – there is no question about it – it's a conservatively-managed fund, but we do that purposely so there's no danger of us not having enough funds to look after the injured worker.

**Chair:** Thank you.

You good, Peter?

**Dr. Bevan-Baker:** Yeah, thank you, Chair.

I fully support that and I know that WorkSafe New Brunswick is the kind of overall manager of much of the fund here, or perhaps all of it.

**Stuart Affleck:** (Indistinct)

**Dr. Bevan-Baker:** My concern and having read the Alberta report, the phrases that come up repeatedly in there are: Erosion of trust in the WCB, that it's lost its way. There are a lot – it's a very critical report, as you well know, and there's a perception whether it's correct or not and whether that is transferable to our situation here on PEI is also arguable, but a perception that the WCB favours the employers rather than the workers and when you make large rebates like \$13 million on behalf of the employers,

that just sort of fuels that perception whether it's correct or not.

I'll ask some more questions later but again, I was just wondering whether you had considered any other way of using that money that may have perhaps countered that impression or done something else.

**Luanne Gallant:** The Alberta report review does give us good information. I've read that section as well and they certainly brought forward a number of ideas from that recommendation that we certainly would like to review. When we read the report as well, there are a number of things that we have initiated that they are speaking about. We planned to really go through that report with very much detail and ask ourselves some questions when we do that.

**Chair:** Luanne?

**Dr. Bevan-Baker:** Sorry.

**Kate Marshall:** Kate Marshall.

**Chair:** Kate Marshall, sorry.

**Kate Marshall:** When we have a larger board in the country that has a comprehensive review like that, it's very useful information for us and as a small board, we often learn from larger boards and I think it's safe to say that the Alberta review will be a very valuable resource for us.

**Chair:** Peter, do you have another question before I turn it over?

**Dr. Bevan-Baker:** I just – follow up on one thing that Luanne said. You said there are a number of recommendations that you've implemented here so I'm just wondering what they are.

**Luanne Gallant:** I would need to look at the report.

**Dr. Bevan-Baker:** Okay.

**Luanne Gallant:** But, when they –

**Unidentified Voice:** (Indistinct)

**Luanne Gallant:** Yes. We could take a couple of examples.

**Chair:** While she's looking for that do you want to continue on with your presentation?

**Luanne Gallant:** Yes.

**Chair:** Thank you.

**Luanne Gallant:** Impairment benefits: The Workers Compensation Board also provides impairment benefits and the impairment policy explains how the WCB determines if a worker has an impairment and how the impairment reward is calculated. The definition of impairment includes amputation, loss of vision, loss of hearing, impaired nerve function, scarring causing disfigurement – a number of areas.

The WCB uses established medical guidelines, the American Medical Association Guide to the Evaluation of Permanent Impairment, and the award can be a percentage of an impairment and workers can request a reassessment after 16 months if their condition changes. Decisions on impairments can be appealed as well.

**Chair:** Luanne, Sidney MacEwen has a question.

**Mr. MacEwen:** Thank you, Chair.

Are impairments benefits – are they comparable across to other provinces?

**Luanne Gallant:** They use the same guidelines so I would suggest they are.

**Chair:** Kate Marshall.

**Kate Marshall:** We use the American Medical Association Guide for the determination of impairment which is consistent with other jurisdictions and certainly consistent with the US as well. In using that guide, we have health care providers who are contracted with WCB who have received specialized training in the use of the guide and so we rely on them to provide the impairment assessment and give us the rating and then we pay the impairment award.

**Chair:** Sidney?

**Mr. MacEwen:** Thank you.

Is it true that our death payout is the lowest in the country?

**Kate Marshall:** I'm not sure if it's –

**Mr. MacEwen:** Is it 10,000?

**Kate Marshall:** – the lowest. It is \$10,000 which a –

**Mr. MacEwen:** Yeah, because I think in that Alberta review it speaks to –

**Unidentified Voice:** It does.

**Mr. MacEwen:** – us being quite low compared to others, right?

**Luanne Gallant:** It speaks to the amount, I know. I would have to check on it.

**Kate Marshall:** We also have –

**Mr. MacEwen:** Is there any – do you know – is that just because we haven't been updated in a long time or is that something that – is it again, we talk about priorities – is it on our priority list?

**Kate Marshall:** We haven't put the death benefit on the priority list but we did a couple of years ago increase the benefit that's available for funeral expenses from \$4,000 to \$7,500. We also have spousal benefits, independent benefits, so the spousal benefit is 75% of the net of the injured worker's pre-injury earnings, and we also have dependent benefits for children up to age 18, or 22 if they are enrolled in education.

**Chair:** Sidney.

**Mr. MacEwen:** I know you will be talking more about the Alberta review later, too, after the presentation and you had mentioned that you will be going through theirs as well. I encourage you to look at the death payout as well just to see – those other benefits are good, but is that in lieu of – do we have that where another place doesn't? That's why they're paying out 40,000 versus our 10,000, I guess (Indistinct). I can't speak to all the other benefits in the other places.

Thank you, Chair.

**Chair:** Okay, thank you.

We will turn the floor back over to you, Luanne.

**Luanne Gallant:** Thank you. We mentioned – we covered this a little bit earlier, but we do try to have a balanced approach between employers and workers. We covered the benefit increase, the elimination of the wait period.

The pension replacement benefit – as we recently revised that policy – which includes a group RRSP, is eligible. As well, we have on our priority list to government around an annuity option for workers. That may speak too, to the age 65 that we've actually – we didn't have an annuity option and we had that on our priority list to have that benefit for workers.

Expand to coverage on medications: as noted earlier, changes to our psychological and psychiatric conditions policy. For the employer group, the decrease assessment rates were in a fully funded status. We developed a funding policy back when we were unfunded. That was one of the initiatives.

Just recently the inclusion of the farming industry online services; we're in the middle of a consultation process with the fishers.

We noted earlier in the presentation that all WCB claims and assessment decisions are subject to appeal. We do have an internal appeal, a process, where we have an internal reconsideration. That's like another look at our decision to see if our decision was appropriate. That's internal; that's the first level of appeal. A person with a direct interest can appeal the decision.

Then we have as well, an independent process with the Department of Workforce and Advanced Learning and that's the Workers Compensation Appeals Tribunal. The IR decision can be appealed at that level within 30 days and the WCAT is an external and separate from the WCB and WCAT decisions can be appealed to the PEI Court of Appeal.

**Chair:** Peter Bevan-Baker has a question.

**Dr. Peter Bevan-Baker:** Thank you, Chair.

I'd like to just jump back to the internal appeal process. I'm wondering how the statistics and the outcomes of those appeals on Prince Edward Island compare to other provinces?

**Luanne Gallant:** We have our slide that speaks to the numbers of appeals. Would you like me to go to that slide?

**Dr. Peter Bevan-Baker:** I'm just wondering how that compares again with other jurisdictions in Canada, whether we're sort of – in the right ball park if you like – for upholding appeals or rejecting them?

**Kate Marshall:** I don't know, across the country, no.

**Luanne Gallant:** I don't know if we can speak about across the country.

**Chair:** Kate Marshall.

**Kate Marshall:** Many jurisdictions have different appeal process as well. They don't have the internal reconsideration and then the extern WCAT. I'm not sure we could kind of compare it like (Indistinct) –

**Dr. Peter Bevan-Baker:** Kind of like apples and apples.

**Kate Marshall:** Yeah.

**Chair:** Peter Bevan-Baker.

**Dr. Peter Bevan-Baker:** Just one more.

Thank you, Chair.

We know from the news yesterday that the WCAT is being bolstered or expanded. Am I right in thinking that the number of cases in review has increased substantially over the last few years? I'm wondering, how long you think it will take for the backlog of claims that are currently under appeal to be rectified?

**Luanne Gallant:** I'm going to have Constance respond to that.

**Constance Robinson:** Constance Robinson, director of Labour and Industrial Relations.

The question you asked was about the backlog. I can speak to the backlog with

respect to once the internal reconsideration has been completed because that's kind of internal to the WCB process. But once that has happened and a person – whether it's an employer or an employee – is dissatisfied with that decision and wants to continue the question they can file for an appeal.

We are just bringing in – by the way, this is week 6 for me in the chair. I have some numbers in my head and I'll do my best to answer.

There were a number of issues that were already in play before I arrived to start addressing our backlog. With the plan that we now have in place, the resources that we have and thankfully because of – we appreciate Executive Councils approval of really broadening our pool of vice-chairs and members that we can have more hearings. We anticipate being able to have backlog cleared – and I have to put a little asterisk about what we call backlog – by the spring of 2018 is what we're looking at, and that's kind of all things considered. The key piece of what goes into the appeal pipeline from notice to appeal to the end, there are a lot of factors in between and we do not have any control over the number of files that are entered in each year. They have varied. Over the last 10 years they varied significantly from a low of 16 in one year and last year was a high of 53. It's kind of bubbled around. The last three years it's been trending upwards, but up until then it's kind of bubbled back and forth.

If we're on track for the current intake that we've been seeing in this year, we should be able to clear the backlog by the spring of 2018 to achieve a steady state. Steady state doesn't mean we have nobody waiting for a decision, even in the best of all worlds it takes about seven months if everything is working perfectly in the system and everyone gets everything filed in time, to actually file your appeal. You have your 30 days to file appeal, then you have another 30 days to actually submit your submissions for your argument, then the other side has an opportunity to make – so they have another 30 days to respond. Then say it takes a month to two months to actually schedule your hearing, have your hearing, and then there is 90 days under statute for the hearing board to actually issue its decision. You're looking at kind of a – a seven month would

be a rosy picture when things are looking good. In that time, new files are coming in the pipeline.

There will always be at least 35 in the pipeline somewhere between file and the outflow. So, given our current rate of things coming in to the pipe, so that's what we're looking at. It's a little bit of (Indistinct) to guess, but looking at my projections, I'm hoping that by end of fiscal year we should be in really good shape and certainly by the end of spring we should have the backlog out, people should have their decisions and people who have been filing in this year will be on the slate, will be having their hearings and will be back to having a steady state of as many decisions coming out as we're having new matters being filed.

That's my vision.

**Chair:** Thank you.

Peter, and then I'm going to go to Brad Trivers for a question.

**Dr. Peter Bevan-Baker:** I'm just interested in the funding for the new positions, the lawyer and the other positions to increase the capacity of the tribunal. Is that coming from the fund or is that a special warrant?

**Constance Robinson:** It all does get billed back to WCB. We are administratively arms-length, they don't get to tell us what we do, what resources we put in. We endeavour to try and have the appropriate resources in place and then we bill it back through to WCB.

**Chair:** Peter.

**Dr. Peter Bevan-Baker:** So, do I take it from that then that you made a request to Executive Council for these extra positions in order to deal with the backlog?

**Luanne Gallant:** They're not positions. They would be – you're talking about the members –

**Constance Robinson:** Sorry, there's a variety of different people at play. There are the appointments that went to Executive Council, those appointments. Then for other parts – because there's a lot of hands that touch the files. There's office of the worker

advisor, there's an office of the employer advisor and we have brought in short-term contract people to help us kind of through this critical period to ramp up. During the next few months I'm going to be looking at the data to figure out what do we actually need on a long-term basis, whether we can go back to our standard staffing model once we get the backlog cleared, or whether we need to enhance our model on an ongoing basis. By next spring we'll know what we need to maintain our stay state so we don't start slipping back into having cases carried over from one year to the next.

**Chair:** Thank you.

Peter, follow up?

**Dr. Peter Bevan-Baker:** Just to clarify that. The request for this extra capacity, if you like however, that came from WCB, did it?

**Luanne Gallant:** That came from (Indistinct) –

**Dr. Peter Bevan-Baker:** WCB.

**Luanne Gallant:** – and we funded WCB through the accident funds, the per diems for those appointments. Those recent appointments did go through Executive Council. Therefore, the WCAT appeals tribunal which includes a chair, a vice-chair and the worker rep and the employer rep, and they're paid a per diem based on whenever they need to have hearings.

Does that help (Indistinct)?

**Chair:** Brad Trivers.

**Mr. Trivers:** Thank you, Chair.

Along the lines of one of Peter's questions, he was talking about the number of cases that go to appeal that are successful, versus the people that lose their appeals. Do you have any numbers around that?

**Stuart Affleck:** We're coming to that.

**Mr. Trivers:** Coming to that, okay.

**Chair:** Brad, can you hold your question until we get that?

**Mr. Trivers:** Yes.

**Chair:** Thank you.

We'll turn the table back to you Luanne.

**Luanne Gallant:** Okay, thank you.

**Luanne Gallant:** Policy Consultation: WCB policies are reviewed on a regular basis to ensure that they're relevant to today's workplaces. During the annual board of directors planning in August of each year, policy direction is prioritized for the WCB operations.

We base our policy work on feedback we've received, emerging issues and trends, information from other jurisdictions, our strategic direction; and so the board planning in August is – we are, they review what the priorities are and what we should be really looking at based on the information that we receive from those areas. The purpose is for policy-setting direction for the upcoming year.

Some examples of some of the changes that we have made would be our psychological and psychiatric conditions policy, our return to work initiatives, our stakeholder consultation, our safety and prevention initiatives.

Stakeholders are involved in the policy review process. We have stakeholders who are on our News and Policy Subscription Service that we email all of those policy changes to. We post our draft policies on our website for review and feedback. We reach out to stakeholders with a direct interest in the proposed policy; we hold meetings with those people, various industries or groups – and we encourage suggestions on how to improve our policies at any time.

As well, with the recent hire of our service quality coordinator, we certainly have a lens with – if there are concerns or issues that there would be an improvement to our overall service quality, and as well, on any policies that we should be looking at.

You have in front of you a copy of our strategic plan, with our vision and mission and our strategic themes. Our strategic themes are Enhancing PEI's Workplace Safety Culture – our injury frequency rate is 1.28 in our annual, it's reported for 2015 or 16?

**Kate Marshall:** It's 15, yes.

**Luanne Gallant:** Fifteen? Because we have a lag year, so our injury frequency is 1.28 which is rather low. That is definitely one of our themes.

Improving Return to Work Outcomes, Ensuring Financial Sustainability, Strengthening Engagement and Partnerships, Providing Continued Service Excellence, and Investing in Our Organization are our strategic themes.

The Legislative Process: we touched on that a bit throughout our presentation, but Executive Council appoints the Board of Directors to make recommendations when changes to the legislation are necessary.

These are some of the changes over the past number of years. Upcoming recommendations on legislative and regulatory changes are: the amendments to the WCAT Panel – that is under our WBC act; payments of the annuities to injured workers – I mentioned that a little earlier.

We're doing a review of our excluded workers and industries, for example the fishing industry. As well, our regulations exclude a number of just kind of smaller groups – like for example clergy, circus workers and things like – you know? So we're actually doing a review of the whole regulation around those type of workers.

Amendments to the OHS regulations under scaffolding, WHMIS – that just went through in the last week or so – asbestos and fall protection; and changes to the OHS Regulations under bullying and harassment. There are some upcoming initiatives.

Here's some information that you asked about –

**Chair:** Before you go on, sorry –

**Luanne Gallant:** Okay.

**Chair:** – Sidney has a question on that section.

**Mr. MacEwen:** Thank you, Chair.

I just wanted to get clarification on the excluded workers and industries.

**Luanne Gallant:** Right.

**Mr. MacEwen:** Which ones exactly are you lobbying for to not be excluded?

**Luanne Gallant:** You mean for the workers?

**Mr. MacEwen:** (Indistinct)

**Luanne Gallant:** Well, we have workers in the middle of a review on that, so we don't have that work finalized yet, but we have it on the priority list to bring forward.

**Mr. MacEwen:** So yeah, these bullets are under the heading "Upcoming recommendations on legislative/regulatory changes are with government."

**Luanne Gallant:** Right.

**Mr. MacEwen:** So you must know which ones you're looking at right now, like you mentioned a few. Do you have specific ones that you're looking to ask government to not exclude or are you looking to add exclusions? I just want clarification: Is it more or less?

**Kate Marshall:** Yes, it's more. Our language – obviously the legislation was written in 1948 and some of the things that are in there are things like peddlers and door-to-door salesmen, that type of thing. So what we're doing is we're trying to determine exactly why that would have been there in the first place. If there's still a kind of current, relevant rationale for that, then fine, but if not we're looking to change that.

We've had specific requests from amateur sporting organizations because one of the exclusions is sports professionals, sports instructors, players and coaches. We are consistent with the number of jurisdictions across the country, particularly in the sports professionals but not so much in the instructors, players and coaches.

That's just one example of where we have received some public information and we're looking at that; but we decided that we may as well look at all of them, and they are very distinct and different, from clergy to

peddlers and door-to-door salesmen to sports professionals, it's fairly wide-reaching.

Then also, the fishing industry is still in there as well, and so we are working to have mandatory coverage for that industry as well. We're consulting at the moment on that.

**Mr. MacEwen:** Chair?

**Chair:** Sidney.

**Mr. MacEwen:** Thank you.

So you are looking to eliminate some of the exclusions then?

**Kate Marshall:** (Indistinct)

**Mr. MacEwen:** And then you're also looking to add on other ones.

**Kate Marshall:** No.

**Mr. MacEwen:** Okay, no, just to eliminate some –

**Kate Marshall:** Yes, we're just doing a review of the existing exclusions with a view to determining if they are still relevant, and hopefully including more workers.

**Mr. MacEwen:** One more, Chair?

**Chair:** Sure. Sidney?

**Mr. MacEwen:** Thank you.

You're saying these are upcoming. Some of them you're still working on. Is there any that's with government now that you hope or you expect to happen in the next legislative sitting or –

**Kate Marshall:** Well, the regulations do speak to workers or industries being included by order of the board. So we are looking particularly at the exclusion around sports professionals, sports instructors, with a view to potentially taking that to the board to recommend some changes in that area.

**Mr. MacEwen:** One more?

**Chair:** One more, Sidney.

**Mr. MacEwen:** And the fishing industry one, how soon do you expect to push for that one?

**Kate Marshall:** That is on our legislative work plan for next year.

**Stuart Affleck:** We would hope to have a recommendation to the government within the next 12 months at the minimum.

**Luanne Gallant:** We're in the middle of the consultation process, and we met with a number of fishers in the spring before they got on the water. Now they're very busy, so we're looking at hoping to meet with them further, do some further consultation in the fall when things quiet down.

**Mr. MacEwen:** With the association and –

**Luanne Gallant:** The association and the harbour authorities and port authorities.

**Chair:** Thanks, members.

Just to bring you up to date as to where we are in the meeting, Luanne's going to wrap up her – I'm looking at your presentation here – she's almost ready to wrap up, and then Constance has a short presentation that she's going to give. Am I correct with that?

**Constance Robinson:** I have a presentation if there are questions, so there are slides that can kind of help support if there are questions.

**Chair:** Okay.

**Constance Robinson:** So depending upon – I am at your disposal.

**Chair:** Okay, perfect.

**Constance Robinson:** I can do the show or I can just field any questions you may have.

**Chair:** Right. Luanne, we'll turn the floor back to you.

**Luanne Gallant:** Thank you.

The Statistics at a Glance: WCB covers approximately 5000 employers with over 70,000 workers. We had about 1,884 claims adjudicated in 2016.

Speaking of appeals; in 2016, 9.5% of the WCB claims were appealed – appealed their decision to our Internal Reconsideration officer.

Of the numbers of claimants that appealed, 88% of those were upheld at the internal consideration level. That means 101 of the 115 were upheld. Of the 101 that were upheld, meaning the decision stood – 58 then continued further to the WCAT process, which is about 3.3% of our overall claims. Of the WCAT decisions rendered in 2016, about 64% of WCAT decisions were upheld.

**Chair:** Luanne, we have a question from Sidney MacEwen and then Brad Trivers.

**Mr. MacEwen:** Thank you, Chair.

I think both Brad and Peter were alluding to this earlier; so you've got 9% of claims that were rejected, right, of the appeals?

**Luanne Gallant:** 9% went to appeal?

**Mr. MacEwen:** Yes.

**Luanne Gallant:** Of that 9% that went to appeal, we had –

**Mr. MacEwen:** Sorry, 10, 12% were denied.

**Kate Marshall:** Kate Marshall.

12% were overturned at the internal consideration level.

**Mr. MacEwen:** Sorry, yes. Okay.

In New Brunswick last year, am I correct in saying it's the exact opposite? They overturned around 90% of 300 cases? We're fairly familiar with New Brunswick, I assume. Can you kind of explain the difference: Why do they have 90% overturned and we have 10 or 12% overturned? That seems pretty wild for a neighbouring provinces' difference.

**Kate Marshall:** I can't really speak to New Brunswick's decision-making. They did have a different appeal structure, I believe, to ours. I can only speak to ours in what that would represent to me is that we are making decisions that are based on policy and legislation because that is what the internal

reconsideration officer's job is, is to make sure that the initial claim decisions or – and it might not be an initial claim decision, it might be a decision throughout the lifespan of a claim, but it is a representation that we are following our policy and legislation.

**Chair:** Sidney.

**Mr. MacEwen:** Thank you.

But, does that not cause the board to pause when you see that kind of range of number? No doubt you're very confident in your process and you're following procedures and that, but when you see that kind of a difference from province to province, does that make you go and review what New Brunswick is doing to say: Is there something – you say the structure is different. Has anybody seen that and said: Wow, that's quite a difference; we should see why they're the exact opposite of us?

It's not like it's 60/40. Does that cause concern to the board at all, or you're happy?

**Chair:** Kate.

**Kate Marshall:** Well, obviously when there are kind of wild differences like that, yes for sure. I personally have a counterpart in New Brunswick that I have spoken to about that. They do have a different, or did have a different structure in that they have a one-person appeal panel and they have recently changed their process quite considerably.

Again, I can't really speak to New Brunswick's performance. I can speak better to ours.

**Chair:** Sid, and then I'll go to Brad.

**Mr. MacEwen:** Thank you, Chair.

When you speak to that person or the process, is there anything that leads you to believe why you're more confident in ours than theirs? What did they change that has dramatically shifted that? You said you spoke to your counterpart over there and they say it's a one-person board. Is that person just being more lenient or –

**Luanne Gallant:** Well, we are really trying to keep our policies as current as we can

with emerging issues and what we're hearing. As Kate mentioned, we can't really speak for exactly what's happening there. We certainly like to keep a lens on that as well, but really our policies, we have made numerous good changes for the worker with our policies, so we try to keep our policies as current as we can. One would think that would support that when we make decisions, that there would be a small percentage that would be overturned based on our policy.

**Chair:** Brad Trivers.

**Mr. Trivers:** Thank you, Chair.

Those were some of the questions I was going to ask as well but also, of the 1,884 claims that were adjudicated, and that would mean the people submitted the claims and they wanted to get compensation. Can you give an example of why a claim would be rejected? I understand about 91% were accepted, but what are some examples of when the 9% would be rejected?

**Kate Marshall:** There are three, kind of criteria for entitlement. One is that an accident, a workplace accident, has occurred. The second one is that the worker has sustained a personal injury, and the third is that that injury is arising out of and in the course of employment.

So in establishing whether an accident has occurred, an example of something that might not be accepted would be: I was walking down the hall and my knee gave out. That's kind of an ordinary body movement, walking, and there's no hazard being introduced there by the employer that would have caused that accident. That would be determined not to be a workplace accident and not arising out of and in the course of employment. There might be an injury, but not arising out of the employment; more coincidental that that person was at work.

**Chair:** Brad?

**Mr. Trivers:** Of those 91% that were accepted, so that went through and were processed and adjudicated, what portion of those would be more of short-term claims like one, two, three years versus long-term claims? So these are people who are going to potentially be receiving compensation for

the rest of their life or until they're 65 anyhow?

**Kate Marshall:** We have currently about 58% of our caseload of clients who are on temporary wage loss benefits, who have been on those benefits for more than 120 days. Those clients would be clients where they may have a minor injury or a more severe injury, but they are requiring fairly significant medical input or return to work services like location rehabilitation or something like that.

**Mr. Trivers:** Chair?

**Chair:** Brad.

**Mr. Trivers:** That's overall of all of the outstanding?

**Kate Marshall:** That's our current –

**Mr. Trivers:** Or is that 58% on any given year, that's around like two-thirds or –

**Kate Marshall:** Yeah, it could be anywhere upwards of 75% and I think it's at one point been 44%, but it's somewhere between that range. The duration, again, could be anything from missing two or three days from work to not returning to work and moving to extended wage loss benefits.

**Mr. Trivers:** I just want to be clear on this point. So that percentage, the roughly two thirds or 60%, those are people who have the shorter term claims?

**Kate Marshall:** Yes.

**Mr. Trivers:** And then around that 30-40%, depending on the year of course, is the other people with the longer term –

**Kate Marshall:** Right.

**Mr. Trivers:** – claims?

**Chair:** Thank you.

Peter Bevan-Baker.

**Dr. Bevan-Baker:** Thank you, Chair.

I note that there are a couple of slides yet to come, Luanne, but at no point is there any mention of the medical aspect of this and of

course the contested claims often arise from differing medical opinions, so I would like to talk a little bit about that.

Could you just explain a little bit about the process where we have an injured worker, for example, who she or he has their general practitioner, their own doctor, who might present an opinion and WCB then will often seek a second opinion? Could you explain how and when you would seek that second opinion and who those medical people are that you engage?

**Kate Marshall:** Typically, there is no second opinion required. For the majority of claims we receive information from, either a family physician, an emergency room doctor or, in fact, an allied health professional a physio therapist or a chiropractor and we use that information and we accept claims, we manage claims through to that worker being recovered.

Really, when we would request a second opinion, would be if we're receiving conflicting medical information or information that seems to be straying considerably from a guideline. We do use disability guidelines to help us. We don't necessarily use them in determining when we close a claim, but we certainly use them in determining what might be appropriate in managing a claim.

Typically if we're requesting a second opinion, it's if there's conflicting medical information or if the medical information is very complex in nature. That second opinion might be from another specialist or practitioner, or it may be from our own medical advisor.

**Chair:** Peter Bevan-Baker.

**Dr. Bevan-Baker:** Thank you, Kate.

I absolutely – and the Alberta report starts by saying that the vast majority of claims are handled simply and quickly and efficiently and there's no problem. It's these complex cases where things get difficult; but it's not an insignificant number of cases that are considered complex. I'm wondering how the WCB attempts to resolve differing medical opinions when you do end up in a complex situation where you have conflicting things. How do you resolve that?

**Kate Marshall:** Well, one way would be to get a further opinion, whether that be from an external source or from our medical advisor. Really we have a process of weighing evidence, and so we have a weighing of evidence policy that helps our case workers to make decisions based on that evidence – which may be, in some cases, conflicting.

So we look at the credibility of the evidence, the qualifications of the person providing the evidence, the objectivity of the evidence, and that helps us to make decisions.

**Chair:** Thank you.

Heath MacDonald.

**Mr. MacDonald:** Is there anywhere in here – and forgive my negligence of the material – but is there anywhere in here that actually breaks down what the different compensation areas are or the most utilized, whether it be mental – I know you're talking about mental illness and it's good to see that bullying and that sort of thing are on your radar as well.

As far as New Brunswick, them having the difference in rates that Sidney talked about and they have the lowest premiums likely in the country, and we made reference to the Alberta study where it's very industrialized and the quickest return back to work. If we had that breakdown, I think it would answer a lot of our questions on comparables to other provinces and to see where they are.

Anyway, to that point, but also: What are the trends that you're seeing outside of Canada through workers compensation and can you make a fair evaluation on the comparable to that? Is it mental illness? Is that a trend? Is it –

**Kate Marshall:** That's definitely a trend, yeah. Psychological effects not just of work but also of physical injuries related to work, and that is often one of those complex factors in managing claims, is the psychological effects of a physical injury, things like chronic pain and just the psychological effects of being injured.

So that's certainly an area across the country that boards are working towards trying to provide better treatment for workers and

have better policies in place, and we certainly reviewed our psychological and psychiatric conditions policy and have expanded coverage in a number of areas in that policy, considering the unique nature of some types of employment.

For example, our definition of traumatic event was expanded to consider cumulative trauma, so that is specifically related to emergency service workers. That would be one policy change that I think certainly boards are across the country certainly have a heightened awareness of and are working to make changes.

**Chair:** Heath MacDonald.

**Mr. MacDonald:** I think – and maybe it was Stuart that said – so there is a health advisory committee being set up to deal with that specific issue to some extent? Is that what you had talked about earlier? Was I correct or –

**Luanne Gallant:** The health committee that we spoke to was around the health industry themselves as far as how they can have better safety and prevention and getting their workers the whole management of their injury and back to return to work, and so that was what that was about.

But when we developed the policy or expanded the policy on psychological and psychiatric conditions, we are part of a working group with a number of other departments. Kate can speak to that better than myself, but a number of other department like with justice and public safety, corrections, with ourselves (Indistinct) –

**Kate Marshall:** Right, like –

**Luanne Gallant:** – with firefighters –

**Kate Marshall:** – there's probation services –

**Luanne Gallant:** Right.

**Kate Marshall:** – addiction services, that type of, I guess, more vulnerable sector. We have a working group set up to look at psychological health and safety resources in areas like that, developing policy.

I think the reference that you're speaking to is the OHS advisory council. One of their kind of key items for this year is bullying and harassment.

**Chair:** I have Brad and Pat Murphy.

**Mr. Trivers:** I'm just curious. What are the sort of deadlines, the timelines for an injured worker to apply and submit a claim, and how do workers that can't advocate for themselves actually submit those claims?

I know I have a constituent that had a brain injury, a head injury. They claim they missed the deadlines and so they weren't able to make their claim. I would imagine you must have something in place for those situations. I'm just curious what it is.

**Kate Marshall:** The legislated timeframe is six months from the date of accident. There's a number of ways that a claim can be created, and quite often it's created by us receiving a medical report. If that's the case, we then write to that worker and we enclose the form that they need to fill in and also a brochure outlining some of the information about how to file a claim. One of the things at the end of that brochure is that they can come and see us and we will help them. So the legislated timeframe is six months, but we do provide information and assistance if required.

**Chair:** Brad?

**Mr. Trivers:** So in the case of someone with a severe head injury, I mean they could be in a coma for eight months so they might miss that deadline. Is this a potential gap that we need to address, or do you have processes in place to handle that?

**Kate Marshall:** Typically someone in that situation has someone advocating for them, either a family member or – and so, and we wouldn't necessarily require that injured worker to be filing the claim themselves in those circumstances if they had a family member advocating for them or a friend. The claim could be created based on that information.

**Chair:** Brad, and then I'm going to go to Pat Murphy.

**Mr. Trivers:** That does make sense. Most people would have someone advocating for them in that situation, but there are cases where there could be an individual that really doesn't. They're injured, they go to a hospital, they're not able to advocate for themselves. I'd like to submit that as perhaps an area to address, to make sure those people don't fall through the cracks. Hopefully they're few and far between anyhow, but –

**Chair:** Thank you.

Pat Murphy.

**Mr. Murphy:** Just on the statistics there, 64% of the decisions were upheld. Does that mean that 36% were successfully appealed? I'm just wondering why. Did they not present a good enough case at the initial process or is there more facts that come to light after their initial claim? Why is that number so high?

**Kate Marshall:** Sometimes there's additional evidence, but usually it comes down to interpretation with regards to weighing of evidence. We have weighed the evidence a particular way, and our internal reconsideration officer has weighed the evidence the same way, and then WCAT perhaps has weighed it a different way. That's usually the reason that a decision would be overturned.

**Chair:** Peter Bevan-Baker.

**Dr. Bevan-Baker:** Thank you, Chair.

I'd like to go back to the medical opinions again. The medical consults for when a second opinion is required in a complex case, do they typically actually examine the injured worker firsthand or do they typically look at the written reports and various lab and radiological tests?

**Kate Marshall:** No. The only person who doesn't examine workers is the worker advisor, and the worker advisor is providing an opinion based on all of the medical evidence that is on the file with the particular context of workers compensation legislation and policy. As far as other types of assessments go, it's a hands-on assessment.

**Dr. Bevan-Baker:** You say that so-called paper doctors, a phrase used frequently in the Alberta report, that's never ever done here on Prince Edward Island?

**Kate Marshall:** No.

**Dr. Bevan-Baker:** Never?

**Kate Marshall:** (Indistinct)

**Chair:** Peter Bevan-Baker.

**Dr. Bevan-Baker:** Thank you, Chair.

The Alberta report talks about readdressing in the bounds when it comes to access to medical opinions and a couple of things that they – well they recommend several recommendations in this part of the report, but one of them is to change the mechanism to make it less adversarial. I think the phrase they use is “case conferencing approach” where the doctors can actually sit down together rather than fight over what is correct.

Is that one of the Alberta recommendations that you imagine implementing as part of your change in culture?

**Kate Marshall:** Yeah, we have been moving towards that over the last couple of years, actually, and trying to have a more multi-disciplinary approach to our case management. We have case coordinators. We have occupational therapists on staff who help us with return to work processes. We have our medical advisor. We have our allied health professionals. We have access to some multi-disciplinary programs where the treatment of the injured worker would be coordinated by a physiotherapist, an occupational therapist, a kinesiologist, a psychologist, a dietician. We do have access to programs that offer that multi-disciplinary approach.

Our medical advisor reaches out to physicians, to either get more information or discuss claim direction, what the next step is. We do certainly try to have a multi-disciplinary approach to claim management, yeah.

**Chair:** Great.

Peter and then we'll let Luanne wrap up her presentation and if Constance has anything she wants to add, and then we have a few questions at the end.

**Dr. Bevan-Baker:** Thank you.

I would like to talk about the exclusion from the Canada *Health Act* and the rationale behind that, of course, is to try and expedite access to medical care, but it also creates certain problems because the doctors associated with WCB tend to be hand-picked, if you like, and that has presented a problem and that's sighted in the Alberta report, also.

I would just be interested in your opinions on whether you would like to maintain this exclusion from CHA or whether you think, as the Alberta report recommends, that that exclusion should be removed?

**Kate Marshall:** We're a small province. We have limited access to certain specialties and certain types of providers who perform things like independent medical exams. So whether we're part of the act or not, I don't think that access issue would change so much. There are a limited number of practitioners who are trained in doing independent medical examinations and we use the ones that are available. We don't always use a specific provider. We use what's available and the person that can see our client the most quickly or that they have an area of specialization in, so I'm not sure it creates big issues for us because we're small and because we have limited access.

**Dr. Bevan-Baker:** Thank you, Chair.

**Chair:** Great, thank you.

I'll turn it over to Luanne to wrap up.

**Luanne Gallant:** Thank you.

We covered the worker and employer satisfaction rate so I'll just move this along.

WCB staff and board members are continually reviewing emerging issues and trends in workers compensation here in PEI. As we mentioned earlier and across Canada and in other areas, especially in the US, we have an overall national workers compensation body; an office who is

coordinated for all of the boards and they are a member of the US workers compensation board. When we have an annual meeting, we get updates from what's happening in the US as well.

We do have a comprehensive policy consultation process. We research issues and best practices. We learn from reviews and lessons that are conducted in other jurisdictions. We do a survey on a regular basis, our injured workers and our employers, we solicit feedback from our stakeholders on key issues and we network and share knowledge with our jurisdictional counterparts.

We recognize that we still have work to do and we recognize that we're in a different place today than we were 10 years ago because we were in a non-funded position. We didn't have as many policies. We put more policies in place. We're at a point where we're in a good funding position. Our policy review process, we used to – kind of like a five-year cycle so if you reviewed this policy this year we might not look at that for another 35 years. We've removed that so that we review all of our policies because we're recognizing that today's world is changing much quicker than it was a number of years ago. So with removing that cycle, would we do a more thorough review and (Indistinct)? Based on annually we're looking at what policies really need priority? As any suggestions we receive it's like: Okay, let's have a look at that. We have really added some rigor to that overall policy process.

As well, we recognize from what we are hearing with a lot of the new initiatives out there or new things that are happening around harassment in the workplace, possibly, or psychological conditions, what is available for our workers around pension replacement and annuities that we really do need to stay on top of things? That's why we did hire an information specialist who can really take the time to review the data, evaluate the data, provide good analysis to the board of directors for direction setting. When we change programs, that information specialist can actually evaluate – do a better evaluation of, if this program is working or not.

As well, around changing the culture in how we work with our claimants, we've resourced a service quality coordinator so that we actually can review what are the issues and how we manage our claims better, and also changing the culture around spending more time on the front end with awareness and education on how the system functions and what's happening with their claim and so on.

That's where we're at today. Certainly when we reviewed the review from Alberta – I don't know, Kate, if you have some significant areas that we saw that we were actually are doing some work around that already and have identified that. These are some kind of just quick examples.

**Kate Marshall:** When I read the Alberta review, I was pleasantly surprised, actually, that nothing was coming as a big shock to me and that they are highlighting a number of areas that we're already aware we need to do some work in and we've got a number of initiatives underway.

The review calls for an establishment of a fair practices office and while we don't have that, the service quality coordinator role is certainly there to create that – hopefully that culture of caring, the feeling for our injured workers that they are being listened to, that they have a place to go if they are not happy with a decision that we make. It's almost another neutral person to kind of hear that person. Also, the service quality coordinator will then loop back with staff. If there are things that we could be doing – simple things like: Well, you could have explained this a little bit better in your letter; you could have referenced the policy piece. The service quality coordinator, if meeting with a worker will take with them relevant policies, relevant evidence that they've used in the decision and hopefully enhance understanding of our decisions, perhaps.

We also have the worker and employer advisor offices. The review also called for increased assistance for workers and employers with reviews and appeals, and certainly a year or more ago we recognized that our appeals system perhaps needed some work and we did a comprehensive review of that system and we are in the process of implementing a number of recommendations from that review.

The roster for independent medical examinations – I kind of spoke to the fact that we have limited options here in PEI, but we do certainly use all of the options that are available to us. Greater choice for injured workers in selecting health professionals – I believe PEI workers have this. We don't typically get involved in who someone is referred to, usually the family physician. If they want to refer someone we support that, to a specialist, or whatever.

There comes a point in time where we may have to make a decision because we are an insurance company and we do have to be mindful of that; but typically, if your family physician refers you to someone we are supporting that.

I spoke the case conference model, the multidisciplinary approach to claims management and adjustments in certain types of benefits. We're working toward an annuity benefit rather than a pension replacement benefit, which will certainly broaden coverage for workers when they attain the age of 65. Those are some examples.

**Chair:** Peter? One more?

**Dr. Bevan-Baker:** I'd just like to comment on the very first one you mentioned there, the fair practices office. That recommendation in the Alberta report is there, and the clear notion behind that is that it's independent of WCB.

You mentioned that the service quality coordinator is an employee of – so that independence, sort of echoes of the child advocate debate that we have had in the House recently, that it's the independence that's the important aspect and it seems to me that that would be missing in a service quality coordinator, particularly in a province where we don't have an ombudsperson to go to.

I don't think that's really a fair parallel to suggest that you're following along the Alberta report, which recommended a fair practices office, by hiring somebody else at WCB. I just wanted to make that point.

**Chair:** Thank you.

**Luanne Gallant:** Thank you.

I know there was a question about vocational rehab, so perhaps I'll get Kate to explain that. I did say it would be covered a little later in the presentation and we'll finish with that presentation.

**Chair:** Okay.

**Kate Marshall:** Vocational rehabilitation is an option that is considered if someone has an impairment and a loss of earning capacity and an inability to return to their pre-injury employment.

The impairment portion is we refer someone for an impairment award when they've reached maximum medical recovery. If the evidence supports that they can't return to their pre-injury job we have a number of options available with regards to vocational rehabilitation.

One would be a job search process where we're helping an injured worker put together an up-to-date resume, helping them look for jobs that are within their functional ability, and allowing them to have access to different counseling services, that type of thing.

Another option is retraining, skills upgrading or retraining, and we support many workers through that process, either to do something to what they did before or something completely different.

At the end of the vocational rehabilitation process, we either estimate someone's earnings based on what we've retrained them to do or sometimes it's actual earnings and we determine if they've eliminated their loss of earnings. They may have an extended wage loss benefit at the end of that.

We recently took that policy to the board of directors and one of the hurdles was that need to have an impairment award before you would be eligible for vocational rehabilitation. What we'd like to see is, if we identify that someone will receive an impairment award at some point – say, for example, they're waiting for a surgery, we know that someone who has surgery is going to have an impairment, and so they may wait for a surgery for six months, 12 months, whatever.

There might be something we can be doing in that period of time that helps them with their return to work after their surgery, like skills upgrading for example. So we recommended to the board that that need to have the impairment before you would be eligible for vocational rehabilitation be changed to a pending impairment so that we can perhaps start that vocational rehabilitation process earlier.

**Chair:** Thank you for your presentation. I do have three members who have a question to wrap up. I have Sidney MacEwen, Brad Trivers and Hal Perry.

Sidney?

**Mr. MacEwen:** Thank you, Chair.

I have more than one question. I assume that's okay?

**Chair:** I know others have a meeting at 12, another meeting at 12, so we'll take your questions and then we will – yeah, we'll take your questions. Let's move on.

**Mr. MacEwen:** That's good. (Indistinct)

**Chair:** Yeah.

**Mr. MacEwen:** We've been waiting a long time –

**Chair:** Yeah.

**Mr. MacEwen:** – to get the board in here, so I want to get my questions in please,

Thank you very much for your presentation. I really appreciate the information and I appreciate the knowledge of the Alberta review because our legislation is based on Alberta's legislation originally, I believe, correct?

**Kate Marshall:** I think it's based on collective legislations across the country.

**Mr. MacEwen:** I want to go back. The most complex files are always the most costly, and Peter alluded to this, and I want to go back to that culture of managing the file for cost, versus making the worker's health the priority.

You listed a few things that are going on, and you've mentioned the service quality coordinator a lot as well. Does that person – is that person – well, who is that person, first of all?

**Kate Marshall:** That person is Craig Abbott.

**Mr. MacEwen:** Craig Abbott, and is that person willing to meet with people who have gone through the system who are not satisfied with the results they've received over years? Like the people that come to us as MLAs with complaints when they're not happy with the system.

**Kate Marshall:** The vision really is that that person kind of is a little bit more proactive than that in dealing with our clients that are going through the system now. Typically, I as the director or Luanne as the CEO, would meet with clients who have been through the system for a long time ago for example.

**Chair:** Sid?

**Mr. MacEwen:** Thank you.

Going back to Peter's point about the independence of the service quality coordinator, is there – of course, the Alberta review is new – but is there a move or a desire to have an independent person to do kind of this role or for someone that they can go to? Is there any talk or is there any mention of moving that up the priority list?

**Luanne Gallant:** We're in the early stages of looking at this Alberta review. We do plan to look at it in a lot more detail. So right now we're in early stages of looking at this review, so we don't have an answer today.

**Mr. MacEwen:** Chair?

**Chair:** Sid.

**Mr. MacEwen:** You guys solicit feedback all the time. Do you hear that, about the – you know, it's more of a case – I know deep down you don't believe that or don't want to believe that it's case management, but do you get that feedback? Is it a real perception out there? Do you guys hear that a lot that – you know, like when we go to the ER, one of those first questions we have to answer is:

Are you regular or are you WCB? Right off the bat that screams two-tiered system and you're classified. Is that something that you guys do here a lot?

**Stuart Affleck:** If you're asking me as Chair, the answer is no. When I became on the board, to perhaps answer your – to get into a little bit deeper than that as a policy person, once I was appointed as a board member I did receive some calls from clients.

Because we're not on the operational side, my role is on the policy side, I would say to them – I might give them a number or tell them how to reach the people they needed to reach, but I – I'm not saying refused, but I discouraged they get into case-specific because that's administrative.

Then once I got appointed a year and a half ago and I became Chair, the phones started to ring again a little bit which was not unexpected. Again, I took the same approach. So I get very – as a board person, I get very few complaints.

The other thing is you get very few calls saying how good you're doing, but I did get one the other day incidentally.

**Mr. MacEwen:** That's good.

**Stuart Affleck:** I got a call from a father of a – his daughter was injured and he informed me that he was very pleased. She was up and dealt with within 10 days. That was the first call on that side that I got, but it's only natural that people who are struggling and have issues are going to – it's an insurance thing. You are going to have a percentage of people who are going to feel maybe they weren't properly treated.

I think the biggest thing on that is to try to assure them that it's been dealt with in a proper manner, and if there have been mistakes, not be scared to correct it. I do believe, and I'm very comfortable as the chair, that that is the approach that our administration does take.

I will just add this: I had the opportunity to sit on the employment insurance appeals tribunal, and what we found the biggest thing when you had to reject an appeal was to reject it in a manner where while the

person may not agree with the decision but they understand the decision. That's very important.

**Chair:** Sid?

**Mr. MacEwen:** Thank you.

You hear – you know, it doesn't take long to do a quick search, and you hear a lot about pre-existing conditions finding. What is the medical approach to that when a health care provider goes and attempts or does their scan or – can you kind of give me a bit of a background on when that (Indistinct) process?

**Kate Marshall:** Sure. Obviously with an aging demographic, pre-existing conditions are, I think, more prevalent than they once were. As an insurance provider for workplace injuries, that is something that we have to consider. We do have a policy related to pre-existing conditions. Our legislation does speak specifically to pre-existing conditions.

Obviously, physicians are treating the whole person, and so they're providing us information quite often related to the whole person. That's their job, absolutely. Our job is to determine what is work-related and what isn't, and that's sometimes very difficult to do.

Again, we have to balance the interests of injured workers and employers, and we are an accident insurance program, so we have to determine what is related to the accident and what is related to something else, and whether there might be a different type of benefit that that person maybe should be looking towards like CPP disability or EI sick or something like that.

We do try to provide as much information as we can, and we do try to write our letters as clear as we can with regards to we're making a decision to close a claim, for example, where the evidence supports that there's a pre-existing condition that is the most dominant factor in that person's inability to work; but again, those are the minority for sure.

**Mr. MacEwen:** Yeah.

**Chair:** Sid?

**Mr. MacEwen:** Thank you, Chair.

Someone presents to their ER, to their doctor, and is assessed. Is it your health care provider that goes and looks for that pre-existing condition or where does that come in the process? Is that, is there – once it's referred to WCB, is there then, if it's not identified at the first, where does that come in? Does it have to be identified at the first or do you guys have health professionals that then do another scan to see if there was –

**Kate Marshall:** No. I mean, a pre-existing condition can present itself at any time.

Sometimes –

**Mr. MacEwen:** Well –

**Kate Marshall:** – you have a –

**Mr. MacEwen:** – not really.

**Kate Marshall:** – (Indistinct) workplace injury in conjunction with a pre-existing condition. An example would be you have arthritis in your knees and you had a fall at work and you have a meniscal tear or something like that.

So you have a workplace injury, yes there is a pre-existing condition that might be affecting your ability to heal from that, and our legislation says that we compensate that person for the full injurious result until they reach a plateau in medical recovery, and then we have to make the determination of what's the most prominent factor here, and we do that based on the evidence that's available to us.

**Mr. MacEwen:** And you were saying –

**Chair:** Sid.

**Mr. MacEwen:** Oh, sorry Chair – about the health care professionals, does the WCB have health care professionals that go in and review to double-check for pre-existing conditions or anything like that?

**Kate Marshall:** No. Our board medical advisor may be asked to review the evidence that's on the file and provide an opinion – but we don't have, like I said before, if your

family physician refers you to a specialist we're relying on the evidence that that specialist provides.

**Mr. MacEwen:** Okay. Chair?

**Chair:** Sid.

**Mr. MacEwen:** So are there health care providers that refuse to do WCB cases like if they're presenting at the hospital or a family doctor? Are there health care providers that can just say: No, I'm not going to deal with that because it's a WCB case?

**Kate Marshall:** I'm only aware of one.

**Chair:** Thank you.

**Mr. MacEwen:** Just one in PEI?

**Kate Marshall:** Yeah.

**Mr. MacEwen:** Okay. And that's a physician?

**Kate Marshall:** Yes.

**Mr. MacEwen:** Thank you.

**Chair:** Thank you.

Brad Trivers.

**Mr. Trivers:** Thank you, Chair.

My questions were along the same lines as Sid's dealing with pre-existing conditions. One of your goals is awareness and education. I was wondering if you think there'd be value in people trying to identify proactively any pre-existing conditions just so they have that marker in the sand so they know if the worst case scenario they have a workplace injury, then they know where they stand.

For example, if they go in for a yearly physical for example, and that physical done is specifically with identifying pre-existing conditions. That way there's not a 'gotcha' if they happen to have an injury. It comes back and: Sorry, the amount of compensation you're going to be given is lower than it would have because there is this pre-existing condition that you did not know about.

I know that covers a wide variety of cases, but is that something that you're considering as part of your awareness and education, maybe recommending people go and proactively identify any pre-existing conditions they might have?

**Kate Marshall:** Typically, if someone has a pre-existing condition that they don't know about, it doesn't necessarily affect the claim typically. Because if you were working before your accident, your injury, and you didn't know that you had arthritis in your knees or whatever it might be and you sustain a workplace injury, a separate and distinct injury, and it affects your ability to heal, again you're going to be compensated for the full injurious result. Identifying it up front, that's great information for us to have, but I don't think it's necessary.

**Chair:** Brad Trivers.

**Mr. Trivers:** You mentioned that post-traumatic stress disorder as well as mental illness-related injuries are on your radar. I'm not sure if you really spoke to this, but what new services are being considered in that area with workers compensation?

**Kate Marshall:** We have access to certain multidisciplinary programs. We have a multidisciplinary rehabilitation program that's provided by one of our service providers that incorporates physiotherapy, kinesiology, occupational therapy and psychology. That would certainly be more for someone who has sustained a physical injury but there is a psychological impact related to that.

We also have a pain management program that we have access to that involves all of those disciplines that I just spoke to as well as a pain management specialist. Chronic pain is something that we deal with a lot. We also have access to out of province comprehensive multidisciplinary programs if need be as well.

**Chair:** Brad Trivers.

**Mr. Trivers:** Thank you, Chair.

So as we know, the federal government has announced its intention to legalize marijuana as of July 1<sup>st</sup> of next year. I can just imagine that will bring changes that might impact

workers compensation. What challenges do you see with this impending legislation to legalize marijuana, from a Workers Compensation Board perspective?

**Kate Marshall:** We're actually already seeing them, because obviously doctors are prescribing medical marijuana. We made a change to our policy back in the fall, our medications policy, which previously excluded medical marijuana or any synthetic form of marijuana from being covered by WCB and we removed that exclusion. The policy states that we will look at coverage on a case-by-case basis based on the evidence on the file and research that's available to us about medical marijuana.

We have approved medical marijuana on a few cases. We're not inundated with requests for it, but we have approved it in some cases.

**Chair:** Brad?

**Mr. Trivers:** So for example, if someone needs to use medical marijuana as part of whatever treatment that they have, is that – they're allowed to use medical marijuana and work? Is that the sort of thing you're looking at?

**Kate Marshall:** That's something that is certainly a national issue right now and I have attended already a couple of different presentations at various different summits and symposiums related to the use of medical marijuana in safety sensitive workplaces. It's definitely an issue. It's something that we will need to consider, absolutely. There are almost two different aspects to it. There's the safety in the workplace aspect, and there's also the use of it and the management of claims and injuries. It's something that's definitely on our radar.

**Chair:** Thank you.

Hal Perry.

**Mr. Perry:** Thank you, Chair.

I want to thank you for coming in today and giving us a presentation. I'm very pleased to see that you – the hiring of a new information specialist coming on, and also some of the initiatives within your strategic

plan, whether it's on education or emerging issues, re-evaluations, enhancements, modernization and fostering. I look forward to seeing how these play out.

Both of my questions have been answered through your presentation or by questions asked by other members, but what are some of the challenges? Or maybe your top two challenges within the whole functional structure of the Workers Compensation Board that you guys may have at this time?

**Kate Marshall:** That's a good question.

**Luanne Gallant:** I think the two that I would say would be the psychological conditions and psychiatric conditions. When workers' compensation was initiated back in the 1940s, it was an industrial age more and now that pendulum is moving. So that's certainly would be an area that we would see as one of our challenges and how to manage that on a go-forward basis.

Medical marijuana would be another challenge for, not just us, but for workplaces and organizations. Not just us, but we would say those are two – because we're still – everyone is still learning around both of those areas. Society-wise, I think it's a challenge so we see that as a challenge – would be probably our two main areas.

**Mr. Perry:** Great, thank you.

**Chair:** Sid.

**Mr. MacEwen:** Thank you.

Is there ever a situation where a client cannot access their board file? So any client is always allowed to access their file when it's all – when things are done, when the file is closed or anything like that?

**Kate Marshall:** At any point in time the worker is entitled to a full copy of their file and updates as time goes along.

**Mr. MacEwen:** My last one, Chair.

You mentioned about – Peter had asked you earlier about an organizational review and when the last one was done. Is there any desire to have a review of WCB or an organizational review of WCB?

**Luanne Gallant:** We mentioned earlier that we're a small board. We feel that we are staying on top of what's happening. We see what – we review other reviews and when we actually see a lot of areas, like for instance the Alberta review, that we can certainly learn from and move forward with, with what we're currently doing. Right now, we would like to have the time to actually review that review and move forward with a number of initiatives based on our strategic direction and what we're doing today. We see that as a really good resource for a board our size to take that and move some initiatives forward.

**Chair:** Thank you.

Brad –

**Mr. MacEwen:** Thank you for your time today.

**Chair:** Thanks, Sid.

Brad, last question.

**Mr. Trivers:** When people come to me, when Islanders come to me, and say: I have this issue with workers compensation and I don't understand the decision. Or when I talked to them I realize they don't understand the decision, they don't know the specifics. Who should I send that person to? Should I –

**Luanne Gallant:** Send them back to (Indistinct)

**Stuart Affleck:** Great question.

**Luanne Gallant:** Send them back to myself and I can get somebody else to, if I can't answer them because I'm not in the files, the claim files, send them back to us and we'll help. That's what our goal is, really, is to help the claimants understand more about why the decision (Indistinct) –

**Chair:** Constance?

**Constance Robinson:** There is also the office of the worker advisor who is available, who is independent from WCB so they can provide some information about the process. Depending upon where they are, it may with advice to go back to WCB to speak with somebody. But if they wanted to

have that comfort of having some external advice on that piece, that's part of the role of the office of the worker advisor.

**Mr. Trivers:** Thank you.

**Chair:** Thank you.

Well, thank you so much for your presentation today and thank you for your work on behalf of injured workers of Prince Edward Island. I think all members of this committee will say that it was a really interesting presentation. You have answered many questions and we do appreciate you appearing before our committee today.

**Stuart Affleck:** If I could –

**Chair:** Stuart?

**Stuart Affleck:** If I could make one quick comment?

**Chair:** Yes.

**Stuart Affleck:** Just listening here to questions, we certainly believe in getting out and letting people know and informing people of how it works, the structure, and the things we've talked about today. I will just simply say to both your caucuses, all of you, if you folks ever felt it would help your colleagues do their work and understand this whole process better, we would be more than happy to do what we did here today to your local caucuses, because we believe the more information you have and the understanding of the structure and the operation, the easier it would be for you people to do your work.

If that's something that you're interested in, we would be more than happy to do that.

**Chair:** Great, thank you.

Also, we are a recommending body so from our meetings – from your presentation, we'll be coming back – we'll be reconvening at another time to come back and we could from this presentation make recommendations to the Legislature with regard to the Workers Compensation Board that may help you and we will be coming back to discuss that at a later date.

But, on behalf of the committee, thank you so much for your presentation.

**Stuart Affleck:** Thank you very much.

**Unidentified Voices:** Thank you.

**Chair:** Members, we'll continue on with the agenda. There's a discussion for some upcoming meetings and as I mentioned earlier, there are some people around this table who have another meeting at noon and so we are bordering on being late for that meeting so we would ask for your indulgence in that.

I'm going to turn the floor over to Emily to discuss upcoming meetings.

**Clerk Assistant (Doiron):** Hi.

I'm just wondering how the committee would like to move forward, I guess, maybe following this meeting.

Then also, there was some business left over from the winter in terms of the *Freedom of Information and Protection of Privacy Act*. We had begun the review of that act with a meeting with the commissioner this winter and there was some other – the committee had discussed maybe inviting in someone in from the access and privacy services office, and then also having the conflict – sorry, the information and protection of privacy commissioner, back in to give recommendations on the act.

I guess I'm just wondering how the committee would like to proceed forward for the fall.

**Mr. MacEwen:** (Indistinct) to me that she was doing her own review at the time and then she was going to come –

**Committee Clerk:** Yes, and she was willing to come back and provide recommendations that she had found through her review of our current legislation.

**Mr. MacEwen:** So, we'd have to find out if she was done, I guess, first of all.

**Committee Clerk:** Yes.

**Chair:** What would our priorities be from the list that we still have? Is there a priority

– are there any priority items that – Emily had just gone through some of those.

**Mr. MacEwen:** Could we go through the list?

**Mr. Perry:** (Indistinct)

**Committee Clerk:** Yes, so I guess if there's anything – was the committee wanting to do anything further with the Workers Compensation Board (Indistinct)

**Mr. MacEwen:** Maybe, I'm good for –

**Committee Clerk:** Kind of think about that and see what –

**Mr. MacEwen:** Leave the option open to invite more specific people in, or them back if that's okay.

**Committee Clerk:** Then the Freedom of Information and Protection of Privacy review is still ongoing from the winter, and then there were a number – there are a few items that have been kind of wrapped up this winter and then there was some items that had been discussed last winter – was carbon pricing, oil tanks and spills, and then grants in lieu of property taxes and a briefing on property taxes from the Department of Finance.

Those were kind of a couple of outstanding items that had been discussed the last –

**Chair:** Does anything jump out to you as a major priority, Brad?

**Mr. Trivers:** The carbon pricing, I think, is a major priority given the fact that it has to be implemented starting in January 2018.

**Chair:** Okay.

**Committee Clerk:** Would the committee like to have someone – it was the Department of Communities, Land and Environment, and then with the request for further information regarding – BC, I think, had had some information.

**Mr. Trivers:** Yes and Alberta.

**Committee Clerk:** And Alberta? Okay.

Would the committee be interested in having someone from the department come in to speak on –

**Dr. Bevan-Baker:** Absolutely.

**Committee Clerk:** – more further detail?

**Mr. Trivers:** We discussed that last time and said yes. We also said – I suggested a video conference with maybe officials from British Columbia who have a revenue-neutral model in place. We said we would have someone come in from the department first –

**Clerk Assistant:** Okay, perfect.

**Mr. Trivers:** – before we do that.

**Clerk Assistant:** So I can work on that.

**Mr. Trivers:** We need to forge ahead here –

**Chair:** Sure.

**Mr. Trivers:** – as a committee.

**Chair:** We have a list and then we prioritized a few of them, we've had them in. Now we need to re-prioritize and see where we go from now.

**Mr. Trivers:** (Indistinct)

**Chair:** From here.

Okay, so –

**Clerk Assistant:** So I'll work –

**Chair:** Continue with FOIPP.

**Clerk Assistant:** Continue with FOIPP? The Freedom of Information –

**Mr. Trivers:** Yes.

**Clerk Assistant:** – and with carbon pricing and then regarding further presentations of Workers Compensation Board if there are any suggestions –

**Mr. MacEwen:** Hold them for now, (Indistinct) –

**Some Hon. Members:** (Indistinct)

**Clerk Assistant:** We can send – yeah.

**Chair:** Peter.

**Dr. Bevan-Baker:** I noticed you didn't mention it, Emily, and I think it's this committee, the report on the fish kills from last year. Twice we've sent letters to – I believe it was CLE – requesting somebody come in and speak to us and –

**Clerk Assistant:** I believe that issue has been moved over to Agriculture and Fisheries.

**Chair:** Yes. I believe that, yeah.

**Dr. Bevan-Baker:** Okay.

**Clerk Assistant:** I'll double-check with the clerk of that committee.

**Dr. Bevan-Baker:** Okay.

**Clerk Assistant:** Ryan's the clerk of that committee, but I believe that –

**Chair:** It rings a bell with me.

**Clerk Assistant:** – it's within agriculture and fisheries now.

**Chair:** Brad?

**Mr. Trivers:** I really think we need to forge ahead as well with understanding property taxes. I know that's a question. Taxes, especially property tax, are brought up time and time again by my constituents.

**Chair:** Okay.

**Mr. Trivers:** Grants in lieu of property taxes was one specific issue, but –

**Chair:** And so the committee – is that a priority for everybody? We want to add that to the list? Okay, thank you.

**Mr. MacEwen:** Emily, I would suggest that the department, at their earliest convenience –

**Clerk Assistant:** Sure.

**Mr. MacEwen:** – like, whenever they could come in, and I know you're going to check with the FOIPP program too, so –

**Clerk Assistant:** Yeah, so those are kind of the –

**Mr. MacEwen:** (Indistinct) that date, if she's not ready, if we could just do the –

**Clerk Assistant:** Yeah.

**Mr. MacEwen:** – the CLE, that first one.

**Clerk Assistant:** Yes. So what I can do with these three priorities, I'll kind of reach out to all the different people involved and kind of slot them in at what day works better for other people kind of do my committee clerk work with that.

**Chair:** Thank you.

Brad?

**Mr. Trivers:** I have some new business when we get there.

**Chair:** Okay. Anybody else have anything to add to the priority list?

New business: Brad?

**Mr. Trivers:** I wanted to put a motion that we write a letter as a committee to the Minister of Communities, Land and Environment to continue the excellent process of openness and transparency and public consultation on the water act, and release the final version that was ready for the Legislature in the spring for review by the public.

**Chair:** Okay. Everybody in agreement with that?

**Mr. MacEwen:** Yes.

**Chair:** Thank you.

Any further business?

Motion for adjournment?

**An Hon. Member:** (Indistinct)

**Chair:** Thank you.

The Committee adjourned