

# Experience Rating Working Group

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March 1, 2016

Mrs. Elizabeth Witmer, Chair  
Workplace Safety and Insurance Board  
200 Front Street West  
Toronto, ON M5V 3J1

Dear Mrs. Witmer:

## Re: Worker Concerns Downplayed and Misrepresented by Rate Framework Consultation

The Experience Rating Working Group was formed in the 1990's and is composed of members of injured workers' groups, labour organizations, legal clinics, and interested individuals. The group's main objective is to expose the adverse affects of the incentive systems used by the Ontario workers' compensation system and to advocate for the closure of those particular incentives.

We are greatly dismayed with the consultations' representation of worker concerns at the recent December 1<sup>st</sup> stakeholder update session. After many organizations and individuals on the worker-side spent countless hours writing submissions, making presentations, and meeting with Board officials and consultants, it was disheartening to see our concerns misrepresented and reduced to one bullet point in the second last slide. And while many of us will once again invest significant resources into making submissions before your March 2016 deadline, which we fear you will also ignore, we do still want to articulate our frustrations with the update.

As you will see, our frustrations centre on the lack of weight given to injured worker perspectives, and the seeming lack of attention paid to the issues that we raised. We will briefly outline our concerns here:

### *Workers are not "Additional Stakeholders"*

Among the 36 slides presented at the update event and made available on the website, only one refers to concerns raised by worker side stakeholders. Bafflingly, we are lumped in under the heading of "Additional Stakeholder Feedback." Workers are not "Additional Stakeholders" in this system; they are its core constituency. The central purpose of a workers' compensation system is to provide care to individuals who get injured during the course of employment.

### *Worker concerns minimized, misconstrued, and lacking response*

Nearly every other slide in the presentation follows a similar format: It outlines the feedback received and explains the steps that the WSIB is taking to address the issue. In two cases (Rate Group 775 and Graduated Risk Band Limits), the WSIB says no changes are being considered, and provides a detailed explanation for this decision.

On slide 34, however, the presentation breaks from this format. Our concern is reduced to one sentence. The opening paragraph suggests that "Some labour and injured worker groups have identified their on-going concern with using claims experience in the determination of premium rates for employers." This is indeed true, but the slide goes on to infer that worker advocates are against any system which is responsive. Rather, we take issue with what the rates will be responding to -- claims experience. We would not oppose a rate framework that was responsive to improved health and safety.

There is no explanation for why claims experience is the only metric that the WSIB has been willing to consider in premium rate setting, and to date we have seen no empirical evidence of how experience rating leads to improved health and safety. We assume you have such evidence, since it is the basis for your framework.

It is further dismaying that the presentation saw fit to respond to our concern about the use of claims experience by highlighting how the rate framework expands its use. The bullet point following our concern actually explains that the framework will extend claims experience considerations to all employers and lengthen the claims experience review period to 6 years. This is the opposite of providing a detailed explanation of why no changes were made to address our concerns.

### *Response Requested*

We understand that you were apprised of some of our concerns regarding the non-response to worker submissions at the most recent LIWAC meeting. You offered us another meeting with staff involved in designing the rate framework. While we are willing to attend this meeting, it is not a satisfactory response to the problems we have identified. We should have a more meaningful response from the Board; one that shows that it takes us seriously as primary stakeholders on this important issue. A good start would be to correctly describe and engage with the very serious concerns about the rate framework that we have raised.

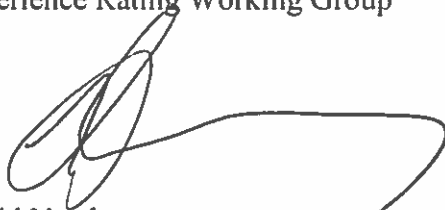
In reporting on the consultation, we request that the WSIB accurately report and respond to the specific concerns that we raised, which are:

1. There is no link between claims costs and health and safety
2. The Framework ignores the Expert Panel and Arthurs recommendations
3. The proposed framework expands experience rating and will exacerbate its negative effects
4. The proposed Rate Framework is inconsistent with the WSIA

5. Injured workers are people, not just “risks”
6. The problems with rating long latency occupational diseases, fatalities, and temporary agency workers
7. Our suggested alternative approach

We further request that the concerns of all worker stakeholders, as explained in their various submissions to the consultation, be properly characterized, fully reported, and appropriately addressed. If your Consultation process is to be truly transparent and responsive to stakeholders, then worker side submissions must also be given due consideration.

Sincerely,  
Experience Rating Working Group  
Per:

A handwritten signature in black ink, appearing to read 'David Newberry', written over a large, sweeping horizontal line that extends across the page.

David Newberry

cc. Minister of Labour  
Mr. Chris Buckley

