

January 16, 2009
Minister of Labour
The Honourable Peter Fonseca
400 University Avenue
Toronto, Ontario

Dear Minister Fonseca:

We are the Disabled Workers who could not attend the annual December 4th, 2008 demonstration at the Minister of Labour on University Ave. We are grateful to the Disabled Workers who could attend. We, like them, are from many parts of Ontario and could not travel due to lack of funds, extreme illnesses, chronic pain and lack of transportation.

Some of us have paid the ultimate price - loss of a family member due to a workplace fatality or occupational disease. Some of us still linger in the appeals process 8 years later and some even more years. We do not receive the compensation or support that we desperately need from the compensation system. You are the one responsible as part of the Ontario government, to make the reforms which we so desperately need. You have said you have met many Disabled Workers in your office, so you have had the chance to learn directly about our difficult situations.

Your government has made strong public declarations about reducing and eventually eliminating our poverty. Yet in the recent Poverty Report, Disabled Workers are not even mentioned. In fact, even cost of living adjustments from the WCB are clawed back from those who are on social assistance. We do not recognize the Poverty Report as being valid because of our exclusion. For those of us downloaded onto the provincial and federal levels, with ODSP or CPP-D, we live in a constant state of financial anxiety and we resent being a burden on the taxpayers rather than on the employers, who should be responsible for all the costs from workplace injuries and diseases.

You have not addressed many of our concerns. The Board is still using deeming to reduce benefits to injured workers who cannot return to work. The privatization of vocational rehabilitation has led to expensive and very ineffective labour market re-entry programs. Vocational rehabilitation should obviously be back inside the WCB, so the Board can advocate for re-employment of Disabled Workers.

You have not mentioned eliminating experience rating, which continues to provide incentives to employers to suppress injury claims and forces Disabled Workers into premature and unsafe return to work and because there is no moratorium on these rebates we do not feel the review will go far enough nor be objective.

However, our biggest concern is we are amongst the Disabled Worker community who is the most excluded of all, those who suffer with daily Chronic Pain. Are there not physical manifestations of disability in many psychological illnesses? Why would there not be psychological illness manifested in physical disabilities? Which are worsened while forced through the 'process' of trying to claim what is our rightful compensation, or was our right, before the Meredith Principles were thrown out the window by the Board.

This Catch-22 is universally known by all parties involved. Chronic pain sufferers are impaired by a condition that cannot be supported by objective findings, they have been subjected to persistent suspicions of malingering on the part of employers, compensation officials and even physicians. Yet after the one year cut-off date of compensation, a year during which proper medical evaluations are not done, using up-to-date MIR's etc., to truly get at the extent of the injuries, most especially spinal injuries, the disabled worker is now at the mercy of relying on the provincial health care system, whilst desperately looking for representation to field the demands of the Board, the Employer to keep the overwhelming stress at bay. If you live in a rural area, you must move to a city with the specialists and medical equipment needed to address your injuries. Now well into the quagmire of being isolated, depressed, in chronic pain and setting up the ride programs your town/city offers to get you to your appointments, the borrowing of wheelchairs and medical aids from Legions/Salvation Army and other charitable organizations, you are most likely visiting a Bankruptcy Trustee, because CPP Disability or ODSP or welfare cannot sustain your family. You've just been downloaded onto your community/family/neighbours, exactly what Sir Meredith said should not happen.

What Sir Meredith did say was Disabled Workers are to receive compensation for as long as the disability lasts. It has not gone unnoticed that the Board trots out the Meredith Principles (MP's) when they change WCB legislation. In so doing, the Board compels the general public to believe the change is of 'benefit' to workers, when in fact the change is about cost-cutting measures and therefore does 'harm' to workers. We respectfully request the Board to uphold the MP's as they were originally intended and to stop using the MP's as a public relations tool.

In our opinion Section 15.1 (2) Subsection (1) of the Charter has been violated See Ontarians did you ever ask why? <http://iwocac.ning.com/forum/topics/ontarians-did-you-ever-ask-why> , which takes us back to the stereotype that chronic pain stems from weakness of character rather than from the injury itself, a legitimate medical condition caused by the Board's malingering appeals process. All

of this could be avoided by early medical intervention and treatment, which is denied to the grievously injured and disabled worker because it means a permanent pension until age 65. Far from dispelling the negative assumptions about chronic pain sufferers, the scheme actually reinforces them by sending the message that this condition is not "real", in the sense that it does not warrant individual assessment or adequate compensation. Chronic pain sufferers are thus deprived of recognition of the reality of their pain and impairment, as well as of a chance to establish their eligibility for benefits on an equal footing with others. This message clearly indicates that, chronic pain sufferers are not equally valued as members of Canadian society.

One other issue we would like to bring to your attention is a meeting in April of 2008 regarding the AMA guidelines. Prof. John F. Burton Tells NY Workers' Compensation Board: AMA Guides are "Hokum" and "Not Evidence Based". You will find all imbedded links to that meeting on this website:

NYWCA <http://www.nyworkerscompensationalliance.org/archives/workers-compensation-ama-guidelines-prof-john-f-burton-tells-ny-workers-compensation-board-ama-guides-are-hokum-and-not-evidence-based.html>

and the Update <http://www.nyworkerscompensationalliance.org/> Canadian Disabled Workers have pointed out how, in Ontario, these AMA guides are still being used illegally by WCBs to determine impairment ratings. We respectfully request this be brought to the attention of the Board.

There are a number of other urgent issues which we could mention, but we wanted to focus on those which we consider the most important. Nevertheless, we would be remiss if we did not ask for an update on the issue the Sun brought to our attention with regards to Jill Hutcheon being paid by both the board and the labour ministry for years. As the Minister responsible for both the WCB and the MoL you have a commitment to hold both entities accountable to the general public. As well as an update on the Review the Board requested of its Experience Rating (Rebates to Companies that kill), brought to Mr. McGuinty's attention by the Star.

In our current economic hard times, we are very concerned the Board will be receiving pressure from employers to cut benefits. We have already paid too high a price, giving our province our health and labour and receiving nothing in return. We ask again that you strongly commit to a reform of our worker's compensation system that will fully compensate us for our losses and support us in being full, respected members of society.

We ask that you bring justice to Disabled Workers and their families and to please remember that many people have concluded WCB is a negative

social determinant to the Health of our most vulnerable group and we believe this cannot be overstated enough.

Thank you for taking the time to read this letter. We anxiously await any and all replies.

Yours truly,

D. M. Boyle (Hamilton, Ontario)
Pete Clare (Lambton Shores)