

SUBMISSION TO

THE ROYAL COMMISSION ON WORKERS' COMPENSATION  
IN BRITISH COLUMBIA

SUBMITTED BY  
THE BRITISH COLUMBIA CHIROPRACTIC ASSOCIATION

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RICHMOND, B.C.

This submission by the B.C. Chiropractic Association ("BCCA") is in response to requests for submissions by the 1997 Royal Commission on Workers' Compensation in British Columbia.

**A. EXECUTIVE SUMMARY**

1. The BCCA represents British Columbia's 650 doctors of chiropractic. The profession has been a primary part of the health system in B.C. since 1933 pursuant to the authority of the Chiropractors Act.
2. Since 1950 the Workers Compensation Act has provided for the delivery of health care by chiropractors. Claimants may choose immediate care from either a medical or chiropractic practitioner without referral.
3. The benefits of chiropractic care for both the worker and the compensation system are well known to the WCB. However, the WCB does not respect this knowledge.
4. WCB prejudice against chiropractic care often delays or denies the delivery of appropriate care to injured workers which results in a corresponding increase in suffering for the worker, hardship for the worker's family, and costs for employers through both increased WCB assessments and greater work time loss.
5. The WCB continues to be influenced unduly by the medical profession's historic bias against the chiropractic profession.
6. The time has come to meaningfully address WCB's attitude toward chiropractic care and the WCB's failure to act reasonably for the benefit of all involved in the compensation system.

**B. The significant role for chiropractic care in any worker's compensation system is clearly established and well known to the WCB.**

The B.C.C.A. presentations to the WCB span 47 years. They include presentations to previous Royal Commissions, the Chairman and Board of Governors of the WCB. In addition B.C.C.A. WCB committees have repeatedly met with Senior Medical Directors of the Board during the past 25 years.

Repeatedly chiropractic care has been proven to improve WCB services, substantially reduce costs (\$70,000,000.00) and speed the return to work of injured workers (appendix A). A major study by the Ontario Ministry of Health titled "The Effectiveness and Cost-Effectiveness of Chiropractic Management of Low-Back Pain" (appendix B) clearly supports many previous recommendations regarding the major cost and injury concern of compensation programs around the world, namely back injury.

Previous B.C. Royal Commissions as early as 1950 documented the substantial beneficial results of workers treated by chiropractors and the resulting low time loss and cost savings (appendix C).

Rehabilitation, Managed Care, or Preferred Provider models are *primarily business approaches*, neither new nor necessarily effective models of care. Preferred provider programs provide the same manner of care provided by the individual practitioners outside the Preferred Provider program. They are not necessarily less expensive than the historic processes. The majority of back injuries do not require lengthy rehabilitation programs. *The early delivery of appropriate care by the appropriate provider is the key to recovery, early return to work, lower costs and above all, it provides the worker and employer the best service.*

Published literature clearly demonstrates that persons with spine and spine related injuries should *first be seen by a chiropractic doctor*. Given the biases demonstrated by WCB it is clear why this is not occurring.

Effective, timely care, and recovery is in the interest of the injured worker and employer as WCB costs can thereby be expected to decrease markedly. Reports have been made available to WCB repeatedly by the BCCA (appendix D) including analyses of B.C. WCB claims in 1977, 1978, and 1979 (appendix E).

In addition, the B.C. Ministry of Labour and WCB are aware of the utilization of chiropractic doctors by WCB's in Alberta, Saskatchewan, Manitoba, and Ontario.

The greatest body of evidence of effectiveness and outcomes of treatment of non surgical spine and spine related injuries is *WCB's own data* collected since 1950.

WCB will pay the claimants health costs and reimburse wages as appropriate upon the WCB's acceptance. This process requires that the chiropractic doctor provide the WCB's practitioner's first report within 11 working days from the injured worker's first attendance to meet adjudication requirements. If there is time loss associated with the injury and its recovery, WCB requires the chiropractor to submit a progress report each two week period. If there is no time loss a progress report must be submitted each four week period.

These records include detailed information of the date of injury, the number of days to first treatment, length of care, number of days time loss and specific diagnosis. WCB has chosen to ignore the analysis of this data in determining its most appropriate procedures to promote a rapid recovery and lower costs.

- C. **Although the WCB knows the benefits of chiropractic care, the WCB refuses to act reasonably to include chiropractic care in the compensation system in a meaningful way.**

Chiropractors must be utilized by WCB in the assessment and management of claims to ensure its mandate is appropriately delivered.

Spinal injuries are the largest category of workplace injury with the greatest associated costs. Many claimants with spine and spine associated injuries will have a chiropractic doctor as their primary or sole practitioner.

The BCCA has maintained that *members of the College of Chiropractors of B.C. must be participants* in order to support the adjudicators, in house WCB treatment and rehabilitation programs and appeals processes.

### **Unit Medical Advisors**

To assist the adjudicator, WCB has unit medical advisors. The term unit medical advisor distinguishes these advisors from others within WCB. Currently, clarification of the claimant's health information required by an adjudicator is provided by a medical practitioner despite the fact the claimant is attending a chiropractic practitioner. To remedy this, *unit medical advisors must include chiropractic doctors* thereby assuring the adjudicator the most appropriate response. Indeed the literature regarding the outcomes of care being markedly improved under chiropractic care and the substantial number of spine injury claims WCB receives, *should require the involvement of chiropractic expertise.*

### **Back Education and Evaluation Program (BEEP)**

WCB has established multidisciplinary assessment and treatment programs for spinal injuries. Despite recommendations and dialogue with the BCCA indicating improved outcomes from chiropractic care, chiropractic doctors are excluded from the programs. Explanations for this include that injured workers entering the BEEP program have previously been seen by chiropractors. This does not make sense as injured workers would also have been seen by physicians utilizing prescription, exercise, and therapists. Upon examination of the first annual report of the BEEP program approximately 85% of persons in the program had, in fact, *not been seen by a chiropractic doctor before being compelled to undertake the program.* Despite this contradiction WCB has made no efforts to improve the care claimant's receive. This continues despite repeated documentation and meetings at which past senior medical advisors had *acknowledged and accepted* published findings regarding improved outcomes of chiropractic treatment of back problems.

Recent WCB policies direct injured workers to private clinics if they have not returned to work within four weeks without any demonstrated regard or interest in the patient's actual clinical progress. While the BCCA in general acknowledges this is legal under the WCB Act it is being applied inappropriately. In implementing this process the WCB has utilized subjective decision making, outdated reports, and ignored their own data being submitted by the B.C.C.A.

## **Appeals and Medical Review Panels**

WCB allows injured workers several appeal processes when their claims are denied. There are a substantial number of denials which upon examination may have occurred because the adjudicator may have received inappropriate information. The appeal process is flawed in that information may not always come from the treating practitioner. The current criteria for appeals to the Medical Review Panel permits *only medical practitioners* to sign a certificate enabling an appeal. In addition members of the Panel may only be medical practitioners. This policy is not in keeping with the broad expertise available and results in an obvious bias. The current Medical Review Panel process discriminates against the worker and the members of the BCCA who do have the appropriate expertise in regard to the signing of certificates and participating as Panel members. This is of particular importance to those claimants whose appeals involve spinal injuries or whose primary practitioner is a chiropractic doctor.

WCB has avoided taking all measures that would substantially improve the recovery of workers and lower the costs associated with injury in its policies dealing with treatment, rehabilitation, prevention, adjudication, and appeals.

### **D. WCB refuses to acknowledge the role and effectiveness of chiropractic care.**

In June of 1994 the BCCA made a presentation to the WCB chair and governors during the WCB's public hearings on changes to the Medical Review Panel process. As part of WCB's preparation it published documents outlining the status of Medical Review Panels in Manitoba and Saskatchewan as the WCB viewed them as models to be followed closely here in B.C.

B.C.'s WCB wrongly published that neither Manitoba nor Saskatchewan permitted chiropractic practitioner involvement in Medical Review Panels (appendix F). *This statement was inaccurate.* The Saskatchewan WCB Act had been amended and in force already one year earlier and chiropractors were indeed participating in their Medical Review Panel. In Manitoba, the chair of the WCB had sent a letter dated June 13, 1994 to the Manitoba Minister of Labour recommending similar changes to Manitoba's WCB Act.

These errors in the B.C. WCB's documents were brought to the attention of the Chair and Governors during the presentation made by the BCCA June 14, 1994 (appendix G). Despite numerous requests for an explanation and correction the matter has not yet been addressed by the WCB to the public or BCCA. In addition, the B.C. Medical Association stated during this public hearing process that should the WCB Act be amended to include chiropractic doctors in the Medical Review Panel process, the BCMA would not participate (appendix F).

In December 1992 Drs. Atkinson and Fulton were contracted by WCB to do a 'Medical Resources Inventory of WCB'. The BCCA, upon request, presented information which reviewed the existing services and the relationship, of the BCCA with the WCB. Matters stressed included the absence of any meaningful involvement with WCB in the Medical Review Panel, the Rehabilitation Centre, and the adjudication of claims involving chiropractic doctors. The repeated and unchallenged findings of U.S.A. and Canada WCB studies comparing outcomes of chiropractic care were also reviewed. The published findings by Drs. Atkinson and Fulton however *fully omitted* the information presented by the BCCA. In fact references to the studies indicating the outcomes that could be achieved from chiropractic care were completely omitted.

**E. The medical profession's bias against chiropractic care permeates the WCB.**

Upon examining the history of the WCB, submissions made by claimants, outcomes studies, policy and statements of the B.C. College of Physicians and Surgeons ("BCCPS") the B.C. Medical Association ("BCMA"), there is strong evidence of a bias against chiropractic care. This bias permeates the WCB. The WCB is perceived to willfully and wrongly prevent claimants from obtaining a fair and impartial process in all matters involving spine and spine related injuries.

WCB's policies have created a process where the claimant does not receive the full benefit of due process as a result of exclusion of qualified chiropractic doctors. WCB policies should fully reflect the injured workers needs and responsibilities to employers, through reviewing all available data and implementing all processes resulting in the effective and appropriate application of the WCB Act.

WCB's communications programs should include disseminating *all available updated data* to industrial first aid attendants, workers, employers, as well as its own staff. While the Act recognizes the worker's right of care, WCB policies marginalize and misrepresent the chiropractic profession which historically has been a primary contact provider within British Columbia's health care system.

WCB cannot continue its current system whereby injured workers are denied appropriate information about all care and treatment. This Commission like WCB itself has heard submissions by persons with spine injuries whose continued suffering and denial by WCB would not be permitted to continue to occur if the Act did not give the WCB an authority which is almost impossible to challenge. In our opinion, the *WCB breaches its duty* of care when it fails to provide adequate information and explanation to workers on their choices of available care.

**F. However, the medical profession acknowledges the effectiveness of the treatment of back problems by the chiropractic profession.**

The BCCPS has had a long-standing policy that physicians should not participate with chiropractors on a professional basis, or refer the patient to a chiropractor for opinion or treatment. Appendix H is an example of this policy position.

However, in written submissions to the Health Professions Council contained in a letter dated August 22, 1996, the BCCPS now formally recognizes that the chiropractic profession does help the recovery of people with back problems.

The following extracts from the BCCPS August 22, 1996 letter are illuminating in their support of chiropractic:

There seems little doubt that through the application of spinal manipulation over the course of their history chiropractors have empirically identified methods of relieving, and thereby restoring the health, of many people who have presented to them with back pain of musculoskeletal origin.

Thus, the chiropractic profession has established accreditation mechanisms which parallel those which have long existed between the Committee for Accreditation of Canadian Medical Schools (CACMS) and the Liaison Committee on Medical Education (LCME) in the U.S.A.

There has been increasing acceptance by medical practitioners that chiropractors have demonstrated that they have a valid role to play in the treatment of musculoskeletal back pain by manipulation. Whatever the true explanation of the underlying mechanisms may be, many patients have been relieved by the hands of chiropractors.

Clearly, the BCCPS recognizes that the time has come for it to respect the core competency of chiropractors. Equally, the time has come for the WCB to respect the known benefits of chiropractic care and provide chiropractors with a meaningful role in the compensation system.

**G. Recommendations**

Recommendations for ensuring the appropriate services are provided under the WCB Act include:

1. The development and dissemination of information prepared in conjunction with the BCCA which will accurately inform:
  - (a) all claimants about appropriate care choices; and
  - (b) policy and decision making committees and related officials.
  
2. A review of all aspects of the WCB functions with the BCCA with the objective of utilizing doctors of chiropractic where the nature of injury involves the spine. This will include but not be limited to adjudicator training programs, Unit Medical Advisors, WCB rehabilitation services, research, and employer and employee safety and prevention programs.

Implementation of the above will improve the delivery of health care and prevention of injuries. At best, implementation will see B.C. be a leader in worker safety and injury recovery.

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