



# SBCI UPDATE

December 2008

NEWSLETTER

## MESSAGE FROM THE CHAIR

May I wish everyone a very Happy New Year and I trust that you all enjoyed a safe holiday break.

The SBCI Board of Directors has recently approved the plans and budget for 2009 for the Co-operative. As part of that planning process, we considered arranging a two-day conference along the lines of the very successful one that we ran in 2007. However, we expect to run Regional training sessions on WSIB's new service delivery roll-out and it's anticipated revised Return to Work policies during 2009. As a result, we will not also be conducting a major two-day conference. The staff has been requested to plan for one in 2010, though.

In October, Gary Gibson, Manager of Health and Safety at Durham DSB, stepped down from the SBCI Board. Gary felt that he had overcommitted his time. On behalf of the Co-operative, I thank Gary for his contributions to the SBCI Board, particularly on H&S matters. Michael Langlois, Health and Safety Officer for DSB of Niagara, has accepted our offer to fill Gary's place on the Co-operative's Board of Directors. Welcome, Mike.

Health and Safety is going to be a major topic for school boards in 2009. Later in this Newsletter are articles on the WSIB's Road to Zero initiative and on Workplace Violence. The Road to Zero programme is targeting an annual reduction of 7% in accident frequency, starting in 2008. Our records for 2008 are not yet complete, but SBCI's member boards look as though they will have achieved a reduction in accidents in 2008 over 2007 but not by as much as 7%.

Workplace Violence is a key focus of the Ministry of Labour and, recently, one large school board has been instructed by the

Ministry of Labour to provide education sessions on Workplace Violence to every member of staff in short order. Likely other school boards will be similarly instructed in the near future.

According to Steve Mahoney, Chair of the WSIB, the Education industry has been given a "red flag" by the WSIB (and, by extension, the Ministry of Labour) because of its inadequate accident prevention improvement over recent years. Even Mining has only a "yellow flag". School boards are going to receive increasing attention from the WSIB and from the Ministry of Labour until improvements in accident frequencies are achieved.

SBCI will assist member boards in achieving H&S improvements to the best of our abilities.

If you have any questions, comments or ideas regarding the Co-operative, please give me a call or send me an email.

Wally Easton  
Chairperson

## IN THIS ISSUE

Message from the Chair	1
WSIB New Service Delivery Model (NSDM) – A Rocky Start	1
Workplace Violence	2
Efficiency and Effectiveness – Committee's Review of Attendance Support in School Boards	3
Attendance Support Programme:	
Case Law Support	3
Site Provincial Internet De Santé Et Sécurité	4
French Provincial Website for Health & Safety (English version)	4
Actuarial Update	5
Parklane Update	5
Surfing the Net	5
Calendar of Events	6
SBCI Services	6
SBCI Staff	6

## WSIB NEW SERVICE DELIVERY MODEL (NSDM) – A ROCKY START

The WSIB launched the NSDM in September 2008 in Ottawa. The WSIB believes that the former adjudication structure at the WSIB was failing to deliver improved results with respect to return to work and recovery of injured workers. The WSIB sees the NSDM as a key component in the "Road to Zero" plan. The WSIB felt that the job of a "consolidated adjudicator" who dealt with a claim from start to finish was too complex and too demanding. The WSIB has redesigned the roles of WSIB staff to make them more specialized and more limited in focus. The key new roles at the WSIB are as follows:

- Eligibility Adjudicator determines entitlement to benefits upon receiving a claim;
- Case Manager concentrates on the opportunities and obstacles to return to work, determines ongoing benefits to be paid to a worker and arranges Labour Market Re-entry (LMR) services, if necessary;
- Nurse Consultant coordinates specific medical interventions and decides what health care services and benefits are allowable;
- Return to Work Specialist is to assist the workplace parties in resolving barriers to RTW and to conduct mediation where necessary;
- Disability Prevention Specialist is to assist employers to build new or improved prevention, disability management and compliance programs and practices for the workplace.

Many employers really liked the old model and appreciated being able to phone their regular adjudicator or adjudicators to be

able to talk about any concerns they might have had with new or older cases. The roll out of the NSDM in Ottawa and Toronto has been rocky. Some commonly reported complaints with NSDM are as follows:

- You do not know who to call when you have a concern about a new claim and have to go through the WSIB switchboard in order to be told who is handling initial decision making. If you leave a message for an Eligibility Adjudicator you may or may not get a call back;
- Eligibility Adjudicators are supposed to make a decision on the allowance or denial of a claim within a maximum of 5 days so their primary concern is speed not quality in making a decision;
- If you raise concerns on the Form 7 or in a letter about whether a claim should be allowed or ask the WSIB to investigate specific concerns, all too often you get a standard form letter approving the claim;
- Case Managers may not see a file for the first 2 to 3 weeks and even if they do they may not have enough information to be able to offer any practical help on return to work;
- Eligibility Adjudicators have no specialized knowledge about the education sector so they may not make correct decisions particularly when dealing with claims of a gradual onset condition or disablement as opposed a specific accident;
- The NSDM does nothing to assist employers deal with external challenges like getting useful functional abilities information from health care providers or quicker access to specialists or diagnostic services in more complex cases.
- When WSIB staff were in training to learn how they were to do their new jobs there was no-one offering effective coverage of their desks and returning phone calls. In essence, workers and employers were left to fend for themselves during the training phase.
- When a new claim was set up off by a Form 8 (first medical report) Eligibility Adjudicators were first speaking to the employee and then contacting the employee's supervisor. The Eligibility Adjudicators do not know who to contact for information

at employers and as a result some supervisors who might never have been called by the WSIB in the past were being asked for things like payroll information.

*What is the WSIB doing to try to improve the situation?*

The WSIB does acknowledge that the roll out of the NSDM in Ottawa was far from ideal. They did not arrange for adequate coverage of staff while they were in training but promise to arrange for better coverage for staff in other offices as the launch of the new service delivery model is rolled out at other WSIB offices in Ontario.

The WSIB would like employers with a new claim and concerns about a new claim to call the 1-800 number of their local WSIB office. The WSIB promises that employers will be given the name and phone number of the staff member assigned to the claim and if no-one is assigned, they will assign someone "right away".

The WSIB advises that Supervisors were getting calls from Eligibility Adjudicators or even payroll specialists at WSIB because when a claim is set up from a Form 8 some old versions of the Form 8 have a place for the name of the employee's supervisor. Consequently the Supervisor became the point of contact even if that was not how a school board had set up their disability management system. The WSIB asks that Supervisors receiving calls from the WSIB that they are unable to answer, either redirect the call to someone at the school board who can help or obtain the needed information and call the WSIB back.

The WSIB advises that detailed decision letters will be provided more often in response to objections and detailed concerns raised by employers in the Form 7 on the 4<sup>th</sup> page or in attached letters. The WSIB asks that employers offer as much as information as possible as to why they are objecting or have concerns so that the WSIB can look into those concerns.

The WSIB promises to do a better job of returning phone messages from employers and says that the service standard for WSIB staff is to return phone calls within 8 business hours.

The WSIB advises that a Primary Adjudicator or Eligibility Adjudicator could hold a claim for 5 business days while they attempt to decide whether to allow a claim or sort out a payment issue. The WSIB says that if there is a RTW issue at the same time that they will, on request, assign a file to a Case Manager even though a decision may not have not have been made on entitlement. The Case Manager is supposed to help employers and workers resolve a RTW issue.

The WSIB has developed a "Case Management template" that they will give to their Case Managers as a format to follow in each claim to try to work out a successful resolution of individual cases. A request has been made for a copy of that template but at the moment it is apparently being copyrighted and not available for release to the public. Further requests will be made for a copy to be shared with all SBCI members.

*What should school boards do in this time of change and uncertainty?*

School boards and other employers need to continue to be self-reliant as much as possible. If you cannot get hold of someone at the WSIB then you still need to act. The action might be to put in writing the concerns you have about a claim. The action could be to offer modified work based on WSIB standard medical precautions and then confirm that offer in writing to the employee with a copy to the WSIB and SBCI. If you have questions or concerns and you cannot get a hold of the person you want to speak at WSIB then please give us a call. SBCI is here to help and we are ready and willing to offer practical advice. SBCI is in regular contact with the WSIB and is providing top level executives with feedback on the NSDM. It is going to take a while for the WSIB to iron out the problems with the NSDM and if the situation does not improve then we want to know so that we may advocate for amendments to the model so it does work.

## **WORKPLACE VIOLENCE**

There are many kinds of Violence in the Workplace. One kind of violence is intentional by nature and another is unintentional by nature.

Acts of intentional violence are committed by antagonists for a variety of reasons such as reacting to an issue over which they have no control. Unintentional violence is best described as being committed by someone who has no or limited control over what they do.

In either case, the general duty clause in the Occupational Health & Safety Act (OHSA) requires an employer to take every precaution reasonable in the circumstances for the protection of the worker. Reasonable precautions include identifying the risk of injury to workers from workplace violence, and taking the appropriate measures to protect them.

The Ministry of Labour's Occupational Health & Safety Inspectors are trained to handle complaints of workplace violence. They proactively check for procedures to address workplace violence where the risk of violence is higher due to the nature of the work. They also check to ensure training has been completed with employees exposed to the possibility of workplace violence.

The Ministry currently regards workplace violence as the attempted or actual exercise, by a person, of any intentional physical force that causes or may cause injury to a worker, and includes any threats which give a worker reasonable cause to believe he or she is at risk of physical injury.

The risk of violence is higher in certain sectors, such as health care, social services, retail, hospitality, education, transportation, police, security agencies, and correctional services. In addition, there are several work activities that are associated with an increased risk of workplace violence. These include: handling cash, protecting or securing valuables, transporting people and goods, a mobile workplace (such as a vehicle), public or community contact, working with unstable or volatile people, working alone or with just a few people, or working late nights or very early mornings.

Inspectors, when they visit a school board, look for three things to be in place; a planned approach to specific workplace hazards; Policies & Procedures relating to the specific workplace hazards; and worker training related to the specific workplace hazard. Failure to comply with any one of

the three elements may result in an order or orders to comply.

## **EFFICIENCY AND EFFECTIVENESS - COMMITTEE'S REVIEW OF ATTENDANCE SUPPORT IN SCHOOL BOARDS**

---

The Council of School Business Officials' Efficiency and Effectiveness Committee on Attendance Support has now received the report it commissioned regarding Attendance Support in school boards. The review was conducted by Deloitte and their report will be presented at this year's Council of Directors of Education Conference in Toronto, which takes place between January 21 and 23, 2009.

Deloitte's report identified that many school boards that have chosen to move ahead in implementing an Attendance Support programme have chosen School Boards' Co-operative to be their partner in this endeavour.

SBCI's Attendance Programme is based on the principles of industry Best Practices and the Healthy Workplace concept. Our singular focus is public education and our programme, which reflects school board culture, will help you achieve success and lead you towards creating and maintaining a healthy workplace.

If you are considering implementing your own Attendance Programme, why not let the professionals at SBCI assist you? If you are interested, please contact our office at

1-800-361-3516 and ask to speak with Robert Orrico (ext. 225) or Lynn Porplycia (ext. 237).

## **ATTENDANCE SUPPORT PROGRAMME: CASE LAW SUPPORT**

---

Recently, the Supreme Court of Canada (SCC) has made some decisions that provide clear legal support for school boards as they move forward with attendance support programmes.

In *Honda v. Keays*, 2008 Supreme Court of Canada (SCC) 39 (June 27, 2008), (see <http://scc.lexum.umontreal.ca/en/2008/2008scc39/2008scc39.html>) the SCC stated

that an employer's "need to monitor the absences of employees who are regularly absent from work is a *bona fide* work requirement in light of the very nature of the employment contract and responsibility of the employer for the management of its workforce." (paragraph 71)

It also supported the employer's basic need to obtain medical information from employees' doctors. Justices LeBel and Fish (who dissented in part) stated, "While monitoring employee absences certainly remains a valid objective, this can be done in a variety of ways. Requiring a doctor's note for each absence is only one alternative. Others include seeking semi-regular updates from an employee's physician regarding the nature of the condition and the course of treatment, checking in with the employee directly, or requiring doctors' notes only when the number of absences exceeds the expected number within a given time frame." (paragraph 123)

The *Hydro-Québec v. Syndicat des employés de techniques professionnelles et de bureau d'Hydro-Québec, section locale 2000* (2008 SCC 43) (July 17, 2008) <http://scc.lexum.umontreal.ca/en/2008/2008scc43/2008scc43.html> involved the termination of an employee for "innocent absenteeism." The employer had tried to accommodate the employee over several years but the employee was unable to maintain regular attendance at work. There was no medical evidence to suggest the magnitude of absences would improve in the foreseeable future.

The SCC stated, "The employer's duty to accommodate ends where the employee is no longer able to fulfill the basic obligations associated with the employment relationship for the foreseeable future." (paragraph 19) And,

"The goal of accommodation is to ensure that an employee who is able to work can do so . . . . The purpose of the duty to accommodate is to ensure that persons who are otherwise fit to work are not unfairly excluded where working conditions can be adjusted without undue hardship . . . . The purpose of the duty to accommodate is not to completely alter the essence of the contract of employment, that is, employee's duty to perform work in

exchange for remuneration.” (paragraphs 14, 15)

In *McGill University Health Centre (Montreal General Hospital) v. Syndicat des employés de l'Hôpital général de Montréal: 2007 SCC 4 (January 26, 2007)* <http://scc.lexum.umontreal.ca/en/2007/2007scc4/2007scc4.html> the employer terminated an employee after 36 months of absence due to illness and according to a collective agreement provision.

When the union initially grieved the termination, the arbitrator dismissed it noting the employer had already accommodated the employee by allowing rehabilitation periods greater than those in the collective agreement. He further noted that the employee remained unfit for work at the end of the 36 months as outlined in the collective agreement. He stated that the employee was, “as of the final hearing day, totally [incapable] of performing the usual duties of her position or of any other comparable position for medical reasons.” He further stated that, “it is difficult to imagine an... additional duty to accommodate an employee whose attending physician considers her to be totally disabled.” The arbitrator concluded that the employer had discharged its duty to accommodate, and “that the employer has treated [the employee] in a way that was just and non-discriminatory in correctly applying an express rule set out in the collective agreement.”

The SCC stated:

To sum up . . . a termination of employment clause will be applicable only if it meets the requirements that apply with respect to reasonable accommodation . . . the requirement that the measure be adapted to the individual circumstances of the specific case. (paragraph 25)

And, the arbitrator was correct to assess the circumstances in light of all the events leading up to the termination of the employment relationship. What is more . . . he made it clear that the employee's overall state of health was relevant. (paragraph 34)

And finally, the duty to accommodate is neither absolute nor unlimited. The employee has a role to play in the attempt to arrive at a reasonable compromise. If in [the employee's] view . . . she felt that she

would be able to return to work within a reasonable period of time, she had to provide the arbitrator with evidence on the basis of which he could find in her favour. (paragraph 38)

These SCC decisions provide clear support for an employer's right to implement an attendance support programme (ASP). Having a programme in place ensures that your school board complies with the *Ontario Human Rights Code* and the fair and reasonable ethics of case law. Perhaps most importantly, it ensures that your employees are supported fairly and consistently while taking their individual circumstances into consideration. An ASP can also reduce costly arbitrations.

The Attendance Support Team at SBCI would like to thank our clients for our continued growth in 2008. We have doubled our number of school board clients over the past year and look forward to our continued service with them. While an ASP has significant cost benefits for a school board, the most important benefit is supporting its employees with disabilities with a view to improved attendance and student achievement.

From all of us in the Attendance Support Team, we look forward to working with our current clients and those of you to come. If you have any questions about assessing, developing or implementing an ASP at your school board, please contact Lynn Porplycia, Attendance Support Practice Leader at 1-800-361-3516 extension 237 or by e-mail: [lynn@sbc.org](mailto:lynn@sbc.org). Have a safe and peaceful 2009!

## **SITE PROVINCIAL INTERNET DE SANTÉ ET SÉCURITÉ**

Les 23 et 24 octobre 2008, le groupe francophone provincial de santé et sécurité s'est réuni à Thunder Bay pour discuter du projet d'un site internet et établir les priorités pour l'année 2008-09. Lors de cette rencontre, Jacques Parisien a annoncé que toutes les directions de l'éducation ont approuvé le projet d'un site provincial internet à la réunion du CODELF le 17 octobre 2008.

Dans le cadre de ce projet, le Centre franco-ontarien des ressources pédagogiques (CFORP) s'occupera de gérer le programme et la mise en œuvre du

site internet qui comportera un volet de formation en ligne.

Pour le développement du site, les conseils scolaires de langue française se sont associés aux trois partenaires suivants : CFORP – Centre franco-ontarien de ressources pédagogiques, ESAO – Education Safety Association of Ontario et SBCI – School Boards' Co-Operative Inc.

Ce projet d'envergure sera réparti sur une période de 4 ans et nécessitera l'implication des services informatique, de ressources humaines et de l'immobilisation de tous les conseils scolaires. Le coût du projet est estimé à 750 000 \$ et sera réparti au prorata selon la méthode Serré entre tous les conseils scolaires. Des économies sur les coûts de déplacement et de formation du personnel aideront à défrayer cette dépense.

Le site internet sera aussi une bibliothèque d'information en santé et sécurité. Le projet est d'une grande envergure et la mise en œuvre sera continue.



## **FRENCH PROVINCIAL WEBSITE FOR HEALTH & SAFETY (English Version)**

The provincial Francophone Health & Safety Group met in Thunder Bay on October 23-24, 2008, to discuss a proposed web site and to determine priorities for 2008-09. At this meeting, Jacques Parisien announced that all Francophone Directors of Education had approved the proposed provincial web site at the CODELF meeting of October 17, 2008.

For the project, the Centre franco-ontarien des ressources pédagogiques (CFORP) will take charge of managing the project and implementing the web site, which will include an online education component.

The French language school boards have joined with the following three partners for development of the web site: CFORP – Centre franco-ontarien de ressources pédagogiques, ESAO – Education Safety Association of Ontario and SBCI – School Boards’ Co-Operative Inc.

This large-scale project will be spread out over four years and will require the involvement of computer services and human resources as well as the mobilization of all school boards. The project cost is estimated at \$750,000 and will be prorated among all school boards using the Serré method. Savings on travel and personnel training expenses will help defray some of the costs.

The web site will also be a health and safety information library. The project is large scale and implementation will be ongoing.

## ACTUARIAL UPDATE

Actuarial reports for 44 District School Boards and 20 District School Authorities were completed this year. Timelines were generally earlier this year because of the change in reporting deadlines by the MOE to November 15 from December 15. An early start to the process, including initial data requests and follow ups, allowed us to meet the new deadlines without too much difficulty.

The third year of the sick leave utilization study was started earlier this year with individual boards receiving their preliminary third year results in the spring. The aggregation and benchmarking were delayed as we were missing data from 10 participating boards that have since sent their data in as part of this year’s PSAB process. We are now able to complete this part of the process and hope to have the reports sent out by the year end.

This fall we also completed the 2008 Group Benefits database refresh for the COSBO E&E Benefits Committee and managed the flow of information to the various parties in required form, on behalf of the OESC.

Overall, a busy, productive year!

## PARKLANE UPDATE

Our annual Parklane Workshop was held in November hosted by the Halton Catholic District School Board. The Parklane staff presented new upgraded features to the Personal Data and Incident Reporting modules. Participants were able to exchange ideas and ask specific questions related to their use of the software. Thank you to Anna Sequeira for hosting this year’s workshop.

### *Electronic Costs*

Early in 2009 the WSIB will be contacting all of our member school boards to confirm the transmission of e-costs from the WSIB to Parklane. At that time the WSIB will be sending an authorization form to be completed by the school board to authorize the WSIB to send e-costs to Parklane on your behalf. The purpose of the authorization form will be only to authorize e-cost transmission and will need to be renewed every two years. Inquiries can be directed to Lisa Chaplin, [lisa@sbc.org](mailto:lisa@sbc.org) or ext. 224.

### *How Can Parklane Identify Accident Trends ?*

From the **Incident Reporting Module**, select the D82, by group, select school location or Job Class group. This report will show you how many incidents occurred during the date range you selected and what group had a high number of incidents.

Select the D9M report, by Group. Select the same date range as above. This report provides a breakdown of the types of incidents within your organization in the date range specified.

## SURFING THE NET

The roll-out of the New Service Delivery Model continues and WSIB policies are being revised to reflect the new roles with the model. Many of the changes are with respect to terminology, for example, with past references to “Medical Consultant” being changed to “WSIB clinical staff”. It also appears the adjudicator will have more discretion in determining whether a medical opinion is needed as the wording has changed to “may consult” WSIB clinical staff. These policies were released

on November 3, 2008 and some examples are the following:

- Adjudicative Process – document #11-01-01
- Lost Time Claims – document #11-02-02
- Recurrences – document #15-03-01
- Psychotraumatic Disability – document #15-04-02
- Disfigurement – Permanent Disability Rating Schedule – document #15-04-07
- Hernia – document #15-04-08
- Non-Work-Related – Second Accidents – document #15-05-03
- Travel and Related Expenses – document #17-01-09

With respect to recurrences, more emphasis is placed on telephone contact with the workplace parties to obtain information rather than relying on forms, as in the past.

If you hire independent operators for your construction work, then this applies to you. The Ontario Legislature has passed Bill 119 that will extend mandatory coverage to independent operators, sole proprietors, some partners in a partnership and some executive officers in the construction industry. It is expected to become effective in 2012 and those impacted by the legislation will not be required to register until the Act comes into effect.

There has been a policy amendment to “determining the date of injury”. This policy amendment impacts employer’s obligations to re-employ and to contribute towards their workers’ employment benefits. This policy clarification eliminates confusion between ‘date of injury’ and ‘date of accident’. The WSIB uses the date of injury to calculate an employer’s re-employment obligation and the period during which an employer is required to contribute towards a worker’s employment benefits. This policy is document #11-01-04 and applies to all decisions made on or after January 1, 2009 for all injuries on or after January 1, 2009. A link to this policy can be found at [www.wsib.on.ca](http://www.wsib.on.ca)

Also, the “2009 Table of Rates” can be found on the WSIB website as well as the “Annual benefit rates review results for 2009”. These are found under “Announcements” on the WSIB website.

## CALENDAR OF EVENTS

---



### ***Board of Directors Meeting:***

February 6, 2009

## SBCI SERVICES

---

### **TOTAL EMPLOYEE ATTENDANCE MANAGEMENT & SUPPORT (TEAMS)**

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

### **ACTUARIAL**

- PSAB –
  - Sick Leave Utilization –
- 

## SBCI BOARD OF DIRECTORS

Ronald C. BENDER  
Damian BORRELLI  
Kathy A. CZACZKOWSKI  
Wallace EASTON  
Michael LANGLOIS  
Carolyn MILJAN  
Bryan D. MAHN  
Steven M. PARFENIUK  
Roger H. RICHARD  
Anna SEQUEIRA

## SBCI STAFF

Brian Brown, Chief Executive Officer  
Mary Luck, Senior Claims Manager  
Darlene Iwaszko, Claims Manager  
Christopher James, Claims Manager &  
Lawyer  
Kelly Melanson, Claims Manager  
Robert Orrico, Claims Manager  
Louise Bellamy, Financial/Office  
Co-ordinator  
Lisa Chaplin, Claims Analyst  
Kathleen Harding, Parklane Assistant  
Monica Wroblewska, Executive Assistant  
Audrey O'Connor, Data Entry Clerk  
Neera Ramkorun, Data Entry Clerk  
Rolly Montpellier, Marketing Consultant  
George Ward, Senior H & S Specialist  
Paul Engelbrecht, H & S Specialist  
France Germain, H & S Specialist  
Lynn Porplycia, Attendance Support Practice  
Leader  
Byron Franson, Attendance Support  
Co-ordinator  
Cheryl Luke, Attendance Support  
Co-ordinator  
Wendy Achoy, Chief Actuary  
Vince Capicotto, Actuarial Consultant  
Joseph Chan, Actuarial Analyst  
Brad Bowen, Actuarial Analyst  
Maggie Zhou, Actuarial Analyst