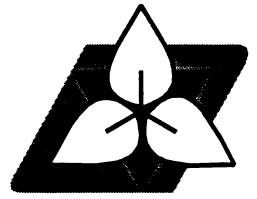


# 4<sup>th</sup> BIENNIAL CONVENTION

## *Working People Working Together*

November 24-28, 1997



**OFL/FTO**

**1957-1997**  
**40 YEARS**

**Document 4**

## PREVENT, PROTECT, COMPENSATE

Employers and their politicians have characterized workers' compensation and health & safety protection, which workers have fought to achieve, as expensive red tape and as impediments to investment in Ontario. But it's really about greed and an attitude which views workers as the enemy . . . the same political ideology which has created the hysteria over deficits and the demand for reductions in social programs.

Their agenda is the same all over the world. Employers fight the introduction of laws and programs which protect workers, no matter how underdeveloped the country is. Their rhetoric is no different in the Third World than it is in North America. Regardless of how low governments set the standards in Ontario, employers will always demand more. Their greed knows no limit. The Ontario government has supported the employer argument that a just workers' compensation system or a healthy and safe workplace impedes competitiveness. This has created a political environment which has made many employers feel that they have free reign to do as they please.

The gains that working people have made in occupational health & safety and workers' compensation over the last few decades are being systematically wiped out. The institutions that we have built up are under attack. The Ontario government has also targeted departments within the Ministry of Labour, wiping out entire sections of government that were set up to provide professional resources to the enforcement arm of the Ministry which helped to ensure that workers are being properly protected.



The Ontario government repeats the *Big Lie* that prevention is their priority . . . while introducing measures which will only prevent occupational injuries and illnesses from being recognized by the compensation system. Ontario will become statistically the safest place in the world to work.

**ONTARIO FEDERATION OF LABOUR (CLC)**

15 Gervais Drive, Suite 202, Don Mills, Ontario M3C 1Y8 Telephone: (416) 441-2731 Fax: (416) 441-1893

## A FAILING HEALTH & SAFETY SYSTEM

Our occupational health & safety system was already failing to provide adequate health and safety protection for workers and failed to compensate many of those injured or made ill because of work. The changes being made by this government to legislation, regulatory processes, the compensation system and an already inadequate enforcement system will result in our work environments becoming increasingly dangerous and unhealthy.

While gains have been made over the years, our health and safety institutions for the provision of occupational health & safety research, training and clinical services have been inadequate for providing the kind of preventative interventions and insights needed for the development of effective prevention programs across the province. Not only are the gains being rolled back but workers are at grave risk of losing these institutions altogether.

The Ontario government has marginalized any meaningful role that workers and their representatives have played in influencing the health & safety system and the regulatory and standard setting process. The legislated role of workers is also being marginalized at the workplace level.

In the interest of our survival we must be prepared to act and effect change. We must develop viable and effective options for a health & safety system that provides a meaningful role for workers and sets the highest standards.

At present, workers in Ontario do not have or even come close to having what the International Labour Organization (ILO) defines as a standard of occupational health, "*Occupational Health should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations...*"

## WORKERS' COMPENSATION FOR WORKERS

Ontario's workers' compensation system is a program which is intended to address a gruesome social problem . . . injuries and diseases caused by work. Workers go to work every day, expecting to return home healthy and safe. But more than 300,000 in Ontario become sick or injured because of work, about one-third of them so severely that they must take time off work. It is estimated that each year more than 6,000 workers in Ontario die of occupational diseases; most of whom do not receive compensation from the Board because the work connection is not proved, not pursued or not understood.

The purpose of a workers' compensation system should be to make the injured worker *whole* again. This, of course, isn't always possible. With this purpose in mind, however, the Board would provide a lifetime living wage to workers with disabilities who have not returned to work. Employers would have a real obligation to accommodate a worker's disability in the workplace, so as many workers as possible can return to work. The Board would provide meaningful rehabilitation for workers with disabilities for whom it is not practical to return to their pre-accident workplace. This would include a wide variety of worker directed retraining, including attendance at community college or university.

In return for a workers' compensation system which endeavors to compensate them for lost wages and a diminished quality of life, workers have given up the right to sue their employer for injuries and diseases caused by their employment. The system should cater to the needs of workers and employers must bear the costs.

## **A PUBLIC SYSTEM - 24 HOURS A DAY**

Income protection for workers who become injured or sick is a patchwork of government and private programs. All have different eligibility requirements and all pay different levels of benefits. These programs include workers' compensation, sickness & accident benefit plans, long term disability plans, Canada Pension Plan (*CPP*), Employment Insurance (*EI*), sickness benefits and Social Assistance programs. Some workers have access to all of these programs and others only a couple. The disparity is great.

In too many cases, employers are pushing workers to access sickness and accident plans or the EI system when they are hurt at work by threatening to delay their workers' compensation claim or by implying that the other systems will get them a cheque faster. This behavior by employers can significantly increase the *experience rating* kick-back they receive from the Board (experience rating is a system in which claims costs or frequency of accidents can have a direct effect on the premiums an employer pays to the Board).

A more efficient system would roll all of these programs into a Universal No Fault Accident and Illness Plan (*UDI*), as adopted by the 1989 OFL Convention. A UDI program must be publicly administered and would provide compensation for all people with disabilities in Ontario, regardless of the cause of their disability. Employers would pay the costs to compensate and rehabilitate their employees. A UDI program would lower costs for those employers which already provide 24-hour coverage through the existing patchwork of overlapping programs and would cover workers who are not currently covered, at a reasonable cost to their employers. Removing the high profit insurance companies from the picture reduces some of the overhead. Spreading the cost of the system over all workplaces brings an economy of scale.

A UDI system which covers all workers in Ontario would eliminate the incentives employers now have to pressure workers not to apply for workers' compensation benefits or to pressure them to abandon a claim which the employer disputes. There would not be any need to debate whether the injury or disease is work-related. The only question would be how the disablement should be treated.

## **THE REALITY**

Ontario has a workers' compensation system which views workers as the problem. It spends incredible resources finding ways to deny workers benefits. It devotes even more resources, hundreds of millions of dollars, to find ways to pay employers kick-backs or reduce their premiums if they can suppress claims or manipulate their accident statistics through programs such as experience rating or the Second Injury Enhancement Fund (*SIEF*). The idea is to present a false picture of the safety record of Ontario workplaces and reward employers handsomely for doing so.

The legislative requirement for workers to make their own application for workers' compensation benefits is intended to reduce the number of claims in the system . . . statistically lowering Ontario's workplace accident rate. This is designed to reduce claims, but not injuries.

The impact for many workers, especially those without the protection of a union, can be devastating. Where do workers get the application form . . . from their employer? What happens when a mistake is made on the form? What about the 24 percent of workers in Ontario who do not read or write at a grade nine level? This legislated requirement was introduced to frustrate workers and subvert their rights. Until we can get the legislation changed, it is up to the labour movement to do whatever we can to ensure that every workplace injury is recorded with the Board.

This may include providing assistance for workers applying for benefits and negotiating time for local union appointees to assist their brothers and sisters in making a workers' compensation claim.

Meanwhile, over 70 percent of injured workers with serious disabilities remain unemployed. Workers' physicians are forced to provide employers with medical information about their patients. Workers who suffer disabilities such as workplace stress are being denied benefits. Workers' benefits do not keep pace with inflation so that large numbers of unemployed workers with disabilities will be forced to apply for social assistance in their later years. Soft tissue and chronic pain disabilities are still eyed with suspicion. Independent research on occupational diseases has been killed, again in order to present a false picture of Ontario's workplace safety record. Unemployed workers with disabilities can be *deemed* to be able to earn the wages of a job which is not even available to them, and their benefits reduced by that amount!

Employers have unprecedented power to force injured workers back to work, whether they are ready or not. Experience rating programs and the legislated ability of employers to force injured workers back to work discourage the application of ergonomics in job design. Workers do not have access to an independent review of Board decisions and policy, unless they use the courts or take their case to the Office of the Ombudsman. Incredibly, the Board's Appeals Tribunal must rule not on the law, but only on Board policy . . . a Board which has no designated worker Directors to participate in the development of policy.

The system is a punitive one for workers because it acknowledges the client as the one who pays the premiums. It is not a system designed to help injured workers. Employers and their politicians even refer to the Board as an insurance system because it works that way for them. Legislation

does not recognize a role for workers on the Board of Directors.

## **H&S ENFORCEMENT AND REGULATION**

In 1994, the OFL developed a discussion paper entitled "Labour's Program for an Effective Enforcement System." It laid out what the affiliates had expressed as the major problems with Ontario's health & safety enforcement system as well as the Ministry of Labour's administrative policy, commonly known as the *Internal Responsibility System*.

The OFL program calls for strict enforcement rather than facilitation by the inspectorate based on a number of principles of enforcement to guide the behaviour of inspectors.

It also advances the provision of more effective enforcement tools for inspectors, such as the institution of civil and administrative penalties as a supplement to criminal court prosecution of employers who violate the law.

The program also spells out labour's vision of an internal responsibility system, with resources and real decision-making power for joint committees being among the key points.

This program was recommended by the OFL H&S Committee and adopted by the OFL Executive Board in November of 1994. It has been broadly distributed to the affiliates and also made up a portion of the response by the OFL to the Ministry of Labour's health & safety discussion paper in the spring of 1997. The paper was updated in September of 1997 and provided in the kits of the 1997 OFL Convention.

It brings together many of the points that labour has been lobbying on for many years. If workers are to make further gains in their health & safety at work, "Labour's Program for an Effective

Enforcement System” will need to be a key component of the overall strategy.

In addition there are still serious gaps in regulatory protection. In particular the following areas need to be addressed:

1. Revisions to toxic substance regulations that will provide protective exposure limits and include requirements for employers to conduct substantive assessments of what workers are exposed to, implement toxic use reduction and substitution where possible.
2. Ergonomic regulations for the prevention of musculoskeletal injury.
3. Indoor air quality (*IAQ*) regulations for the protection of workers in non-industrial work environments.
4. Violence regulations to protect workers from increasing risk of aggression, harassment and violence while at work.
5. Sector specific regulations to cover the hazards and processes of particular sectors and revisions to the ones that do exist. Presently only a few sectors have their own regulations and they are wholly inadequate in providing the level of protection that is needed for working people.

## **OCCUPATIONAL HEALTH AND SAFETY RESEARCH**

Ontario’s health and safety system does not have a dedicated institution for research in occupational health. Currently, research in occupational health is narrow and spread over several institutions.

Occupational health prevention requires a dedicated institution along the lines of the National Institute of Occupational Safety and Health (*NIOSH*) in the US or the Institut de recherche en

santé et en sécurité du travail du Québec (*IRSST, Québec Occupational Health and Safety Research Institute*) in Québec. Such an institution should be dedicated to research and policy development on occupational disease and hazard analysis that is responsive to the needs and issues arising in the work environment and would develop realistic solutions for prevention.

Rather than do this, the Ontario government has eliminated the Occupational Disease Panel (*ODP*) . . . the one Ontario organization mandated to investigate possible occupational diseases. The government has thrown the research open to any university or individual that is prepared to submit a proposal that is in keeping with the government agenda.

We know that workers have long been the canaries in the discovery of human carcinogens among the thousands of workplace chemicals. Less than one percent of the estimated 60,000 to 100,000 substances that people are now exposed to have been fully evaluated as to their toxicity to humans.

The International Agency for Research on Cancer (*IARC*) is the body that has been established by the World Health Organization (*WHO*) to identify chemicals and industrial processes that might cause cancer. IARC is recognized around the world as the expert on occupationally-caused cancer.

In the classification of human lung carcinogens, 95 percent of the causes of lung cancer have been identified in studies of workers, and 77 percent of human carcinogens classified by IARC have been identified in studies of workers. IARC has identified just 22 lung carcinogens and a total of 44 human carcinogens (not including cancer treatment drugs).

One of the key reasons that more has not been done in establishing the relationship between disease and the working environment has been a lack of documentation that includes the

employment and exposure histories of each cancer patient.

In an attempt to begin to address this issue, the Occupational Disease Panel (ODP), the Windsor Cancer Treatment Centre and the Occupational Health Clinics for Ontario Workers (OHCOW) in Windsor worked together to produce the first occupational history project initiated by any cancer treatment centre in the country.

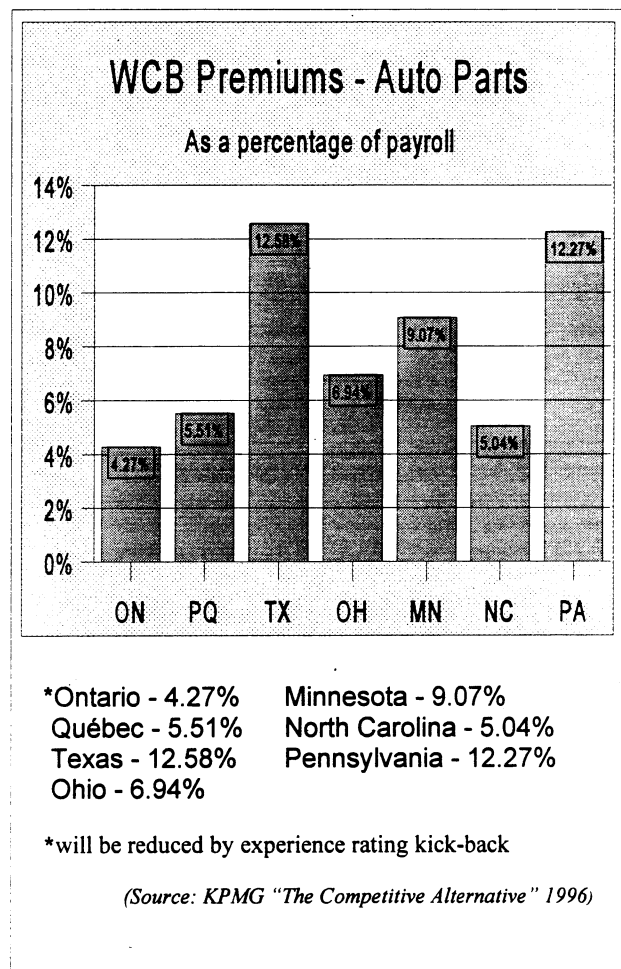
The key component of this project is a computer programme titled, "Computerized Recording of Occupations Made Easy" (CROME). This programme, if implemented at cancer treatment centres province-wide, would be instrumental in collecting the data that is needed to make the workplace links with this disease.

This would help to counter some of the research that is bought and paid for by the chemical and pesticide companies. These companies promote research which claims that only 2 percent to 4 percent of cancers are from the environment in which we live and work, and most of the remaining cancers are a result of our "lifestyle."

One other key reason for the failure to establish the relationship between cancer and work is the lack of funding to conduct the investigations into the connection between disease and work. In the US, just one percent of the budget of the National Cancer Institute is provided for occupational cancer studies. In Ontario, the annual operating budget of the ODP is just \$750,000, or the equivalent of the capitalized cost of just two fatal workers' compensation lung cancer claims. This funding is minuscule considering the level of success such research has had in confirming the causes of cancer and other types of disease by studying workers. When we know the cause, we can prevent the disease.

## WORKERS' COMPENSATION FUNDING

There has been much said about the Board's unfunded liability. The unfunded liability is the difference between the money the Board has on hand and the total value of all the benefits the Board owes to all injured workers, for the life of their claim, adjusted for inflation. The unfunded liability is not a real number, but simply someone's prediction of what the inflation rate will be for the next thirty years and a prediction of the life expectancy of injured workers.



The unfunded liability began to grow in the 1970's as the workplace changed. New work methods, chemicals and increasing production levels rapidly changed the nature of work-related injuries and diseases. Workers' compensation costs rose accordingly, but employers were still paying

bargain basement premiums and the unfunded liability began to rise until 1985. From 1985 to 1993, the value of the unfunded liability remained virtually unchanged, rising at about the inflation rate. Since 1994, the unfunded liability has decreased. Employers' average premiums have been decreasing since 1991.

The Board is remarkably well funded with more than 50 percent of all the money it will ever need for benefits until all the injured workers currently in the system die. It has some \$9 billion in the bank. The Board has never borrowed a dime in its history. It has never used one dollar of taxpayer money because premiums are paid by employers and has lower overhead costs than the greedy insurance companies. Ontario's employers pay premiums so low that they rank in the lowest third of premiums paid by employers in North American jurisdictions. Employers pay workers' compensation premiums based on a percentage of their payroll. It doesn't make sense for the Board to have tens of billions in assets. A funding ratio of about 50 percent of its total future liabilities is adequate, with the Board operating on a current cost basis when the 50 percent ratio is reached. This will cushion the Board during economic downturns and sets a realistic goal when the economy is healthy.

The Board has not adjusted to changes in our economy. As free trade closed manufacturing and resource industries, more people have been employed in the service sector, which is largely not covered by Ontario's workers' compensation system. Ontario's system covers less than 70 percent of employers while British Columbia's system covers about 95 percent. This has an obvious impact on the Board's ability to fund itself in the future.

## **COVERAGE**

More than 30 percent of Ontario's workers are denied workers' compensation coverage. The key

sectors which have managed to lobby successive governments in order to be excluded from the system are the highly profitable banks, insurance companies and other service sector employers.

Employers try to create *independent operators* in sectors as varied as lumber, mining, construction and restaurants. Employers create bogus contracts with these workers to relieve themselves of their responsibility to pay income taxes and workers' compensation, EI and CPP premiums.

Legal clinics and injured worker groups have files of horror stories from workers in the excluded sectors or who were injured while working as independent operators. Many workers are fired for being injured with no benefits to compensate them for income loss.

Workers must be entitled to benefits when they are injured, no matter what the circumstances. Whether they are viewed as independent operators or are getting paid *under the table*, they deserve compensation if injured. It is up to the Board to sort out the finances with the employer.

## **MEDICAL INFORMATION**

Current legislation ties entitlement to benefits to the release of medical information to the Board *and* the injured worker's employer. Entitlement to benefits is also tied to the injured worker's co-operation with medical procedures or health care measures that the Board considers appropriate.

In other words, the Board can force you to take drugs or undergo surgery that your physician advises against. If you do not co-operate, you are cut off benefits.

You cannot be entitled to benefits from the Board unless you agree to the release of medical information about your injury to your employer when you apply for benefits. Your physician is

required by-law to provide the information to your employer.

## **RETURN-TO-WORK**

More than 70 percent of injured workers whose disability has caused them to be off the job for one year or more remain unemployed, despite legislation which has obligated employers to re-employ them and accommodate their disability since 1990. Many employers have simply ignored their obligation and in most cases, have not implemented good return-to-work processes and structures in the workplace.

Instead, the Board has encouraged employers to concentrate on the manipulation of statistics . . . hiding claims, appealing claims, intimidating workers from filing claims . . . to maximize experience rating program kick-backs, rather than encouraging the implementation of health & safety and return-to-work infrastructures necessary to properly accommodate workers with disabilities.

Return-to-work must be facilitated by a joint return-to-work committee, comprised of equal numbers of management representatives and worker representatives. Their goal must be to return the worker to productive employment in the worker's pre-accident workplace. No one knows the workplace better than those who work there. They understand what accommodation solutions will cause the greatest disruptions in the workplace and what solutions will cause the least. They understand what work is suitable and what is not. It is the employer's responsibility to ensure all members of the return-to-work committee receive adequate training.

In 1994 legislation was adopted which would assign a value to the employer's return-to-work and health & safety practices and programs, when calculating an employer's experience rating kick-back. In other words, employers would have to provide training and have a workplace structure

which facilitates safe and suitable return-to-work, in order to get their full experience rating kick-back. The employers squealed like stuck pigs and the legislation was never applied by the Board. In 1997 these provisions in the law were struck down and experience rating kick-backs now rely even more heavily on easy-to-manipulate statistics.

Experience rating must be eliminated. Under the current system, employers which comply with the law and report every workplace accident are penalized and employers which break the law and hide their accident statistics are rewarded with experience rating kick-backs.

The health & safety of working people must not depend on whether it is more profitable for an employer to try to hide an injury or to force an injured worker back to work than it is to prevent the injury from happening in the first place. Premium kick-backs must be eliminated. Penalties for employers which do not comply with health & safety or workers' compensation legislation must be substantive. The cost of violating must be greater than the cost of compliance.

An *Accreditation* program must be implemented by the Board for the purpose of evaluating an employer's health & safety and return-to-work programs and practices. Workplace audits must be performed at regular intervals. Employers which do not meet the Board's Accreditation standards will be assessed a surcharge on the premiums they pay to the Board.

## **WHSC and OHCOW**

The Workers Health and Safety Centre (*WHSC*) and Occupational Health Clinics for Ontario Workers (*OHCOW*) are under attack and are in danger of losing all funding. The OFL and all affiliates will need to vigorously lobby the government; negotiate the use of health & safety training and clinic services with employers; and



negotiate an alternative source of funding from the employers in order to keep our institutions alive.

## **GAINING PUBLIC ATTENTION**

Of all the issues that organized labour speaks out on, occupational health and safety is the issue for which we have the most credibility with the general public and our own members. In the past, our greatest successes have come when we bring to public attention the human face of the tragedies and injustices that occur in our workplaces. Our biggest gains have been made when we work with supportive health and safety professionals, community activists and academics to fight for change in the workplace, our communities and in the Ontario legislature with our legislative partner, the NDP.

Most recently the struggle to gain public awareness and to fight back against the regressive legislative agenda of the Ontario government has been carried out at the community level. The OFL, its affiliates, labour councils, injured workers' groups and political activists have organized regional Workplace Health Committees (*WHC*). The *WHC*'s have been struggling hard to lobby the government as well as educate the public and their members regarding the attacks on workplace health, safety and compensation.

Like most other such groups, the *WHC*'s have been hampered by a lack of resources. Many of our political activists are defending the attack on other important issues. In some cases, *WHC*'s suffer from a lack of individuals with the skills in political organizing, developing creative activities to gain media attention or the knowledge of how to deal with the media when they do show up.

Our regional Workplace Health Committees will need more resources and training to maintain the fightback on occupational health & safety and workers' compensation.

## **PROTECTING OUR OWN**

Many of the gains that we have fought for have been for the benefit of all working people, not just our own members. While we will continue to fight on behalf of all workers, we must take steps to ensure that our gains are preserved for our members. To ensure that the rights, protections and compensation for injury are preserved for our members, we need to resort to what has worked in the past and negotiate them into our collective agreements.

Many of our members who have received health & safety training to carry out their technical responsibilities on joint health & safety committees lack the knowledge of how our gains have been made. They may not have the skills to fight back against the regressive changes which the Ontario government and its employer supporters are making. They may not take an active leadership role in the local union. This must be rectified if we are to rebuild our base of activists. In addition to the technical skills of our health & safety activists, they will need to be provided with the skills to organize and generate activism around health & safety and compensation issues; understand the politics of how our gains have been won; and receive education to develop the skills to fight for and maintain our gains.

## **PRIVATIZATION OF THE COMPENSATION SYSTEM**

Privatization means control by private interests. How could workers, employers and the public be represented on the board (or boards) of directors in a privatized system? The two main stakeholders, workers and employers, would have no say in the administration of a privatized system. Rather, insurance companies, accountable only to their stakeholders, would be in control.

Placing the emphasis on profit drives costs through the roof, lowers standards and threatens equal access and universality.

The exorbitant costs of privatization are illustrated by workers' compensation systems in the United States. The record is dismal. Less than 60 percent of their expenses are paid out in benefits, compared to the Ontario Board's 83 percent -- and no American jurisdiction provides the benefit levels of Ontario.

Health care is a good comparator due to the size of the system. General Motors pays more than double the monthly premiums for hospital/physician care for a worker in one of its plants in Detroit than it does for a Canadian worker just two miles away in Windsor. Why? The Canadian system is universal and publicly run.

The Ontario Government is preparing to hand over the most lucrative components of the compensation system to the big American insurance companies. The Ontario labour movement must prepare to oppose this donation to the private corporate interests that have helped to elect right wing governments all over North America. Under the NAFTA rules once the private sector gains control of our compensation system, it cannot be taken back.

Organized labour must prepare for the fight to keep Ontario's compensation system publicly controlled and administered. We must take on any attempt by the government to cut back and privatize the work done by the WCB.

## **BILL OF RIGHTS**

The Ontario labour movement must adopt a Workers' Compensation Bill of Rights as a set of principles which will serve as our objective. We must continue to fight to achieve these goals:

## *WORKERS' COMPENSATION BILL OF RIGHTS*



The system shall protect workers 24 hours per day. The system shall cover all injuries and diseases, regardless of their cause.



All costs resulting from workplace injuries and disease shall be borne by the employer.



Injured workers and their dependants have the right to fair compensation and timely, independent justice.



Workers and employers have the right to prompt service, delivered in a professional manner.



Workers' claims shall be accepted by the Board upon application and they shall not be adjudicated until all relevant information has been obtained.



Injured workers have the right to payment of 90 percent of their net average earnings until they are re-employed, following which time the Board shall pay the difference between their pre-injury earnings and current earnings.



Injured workers left with a permanent disability have the right to a lifetime pension to compensate for loss of quality of life.



Benefits shall be indexed at 100 percent of the Consumer Price Index.




Injured workers have the right to decide their own medical treatment.





Initiatives to reduce soft tissue injuries shall be governed by a provincial ergonomics regulation.





An *Accreditation* program shall evaluate an employer's prevention and return to work practices and penalize employers which do not meet the program's standards.


 Adequately funded occupational disease research shall be conducted by an independent body governed by an equal number of employers and workers.


 Injured workers have the right to return to their pre-accident workplace, facilitated by a joint worker/management return-to-work committee.


 A job record detailing the jobs performed by every worker, the length of time the duties were performed and listing all substances a worker was exposed to in the course of their employment shall be maintained by the employer and shall be provided to the worker upon request.

 Injured workers who, for whatever reason, are unable to return to the pre-accident workplace shall have the final say in the design of their rehabilitation program.

 Workers and employers shall have the right to present objections to Board decisions before an independent appeals body, mandated to make decisions based on law and policy, and comprised of equal numbers of appointees from worker and employer organizations.

 All employers in the province shall be required to participate in a single collective liability fund. The fund shall maintain assets which approximate 50 percent of the Board's total future liabilities.

 Workers shall have the right to representation when appealing Board decisions, provided by the Office of the Worker Adviser and funded by the Board. Worker advocates shall have access to worker run training funded by the Board.

 The Board's Board of Directors shall be comprised of an equal number of worker and employer representatives.

## **ACTION PROGRAM**

*The Ontario Federation of Labour, in cooperation with its affiliates and social partners, will work to advance the health & safety principles contained in this policy paper and will promote the Workers' Compensation Bill of Rights:*

- 1) lobby the provincial government and the Board for the implementation of the health & safety and workers' compensation principles contained in this policy paper.
- 2) disseminate the Workers' Compensation Bill of Rights to all affiliates and the injured workers' community, calling on them to vigorously promote its contents.
- 3) initiate a Task Force among the members of affiliated unions to measure what our members believe are the biggest problems in dealing with the workers' compensation system and prioritize the OFL's lobbying and campaign efforts accordingly.
- 4) the Ontario Federation of Labour will set up a central fund for the financing of the Workers Health & Safety Centre (*WHSC*) and the Occupational Health Clinics for Ontario Workers (*OHCOW*). Affiliated unions will, as part of the bargaining strategy with their employers, demand funding from the employers that will go into the central fund. These monies will be used to maintain the operation of the WHSC and OHCOW.
- 5) urge local unions and labour staff to negotiate re-employment clauses and modified work arrangements which include a role for joint re-employment committees. Should re-employment be denied for any reason, resulting in a reduction or termination of benefits, the employer must be responsible to make up the loss.

- 6) urge local unions and labour staff to negotiate collective agreement clauses which will provide paid time for local union nominees to help co-workers fill out their application for workers' compensation benefits in order that all workplace injuries are recorded with the Board. Paid time should also be negotiated for local union nominees to represent members who are appealing a Board decision. Paid access to the necessary training for local union activists through the OFL WCB Training Project must also be negotiated.
- 7) urge local unions and labour staff to place on the bargaining table language that will protect our gains in health, safety and injury compensation. This will include provisions for training by the Workers Health & Safety Centre (*WHSC*) and clinic services by the Occupational Health Clinics for Ontario Workers (*OHCOW*).
- 8) urge local unions and labour staff to negotiate collective agreement language which recognizes as compensable any injury which a worker's doctor says is work related . . . and if the Board does not provide wage loss benefits while the worker is off work, the employer shall.
- 9) working with affiliated unions, the Ontario Federation of Labour will develop a system of workplace injury and illness monitoring. This will include those injuries and illnesses that result in lost work; not just lost time, in order to record those workers who require modified work for the duration of the injury or illness. The affiliates will work to have the system established in the workplace so that the true level of injuries and illnesses can be made public.
- 10) hold regional workshops in 1998 to update local union activists on new Board policies and to implement fightback programs in their workplaces and the community. All workplace injuries must be reported to the Board. Employers with bad records must be publicized in the community. Working people must do whatever it takes to set the workers' compensation and health & safety agenda for the next provincial election.
- 11) investigate the creation of a structure within the labour movement which will assist workers to fill out their application for workers' compensation benefits, receive information on ergonomics and return-to-work and provide a list of resources, referrals, collective agreement language and general information regarding workers' compensation and health & safety issues.
- 12) working with affiliated unions, the Ontario Federation of Labour will develop a labour vision for a new health & safety system. We will design institutions, funded by government and the employers, that will work for the protection of all workers. Such a system will include an equal role with employers in a new regulatory development process.
- 13) OFL affiliated unions will provide support for the regional Workplace Health Committees (*WHC*) as part of the overall strategy on the fightback for workplace health, safety and injury compensation.
- 14) OFL affiliated unions will collect real life stories that can be used to demonstrate to the public the impact on families of occupational injuries, disease and fatalities.
- 15) affiliated unions will provide financial support for the development of a political education program for health & safety activists. The goal of this program will be to

regenerate health & safety activism in the workplace and the community.

- 16) the Ontario Federation of Labour and affiliated unions will lobby the provincial government to revise legislation, enforcement and the Internal Responsibility System in Ontario to reflect what labour has laid out in the "Program for an Effective Enforcement System."
- 17) continue to develop a strong working relationship with the Ontario Network of Injured Workers Groups, especially at the community level.
- 18) the Ontario Federation of Labour and affiliated unions will work to see the Computerized Recording of Occupations Made Easy (*CROME*) system put in place at Cancer Centres across the province.
- 19) the Ontario Federation of Labour and affiliated unions will continue the fight to preserve the Occupational Disease Panel (*ODP*) as part of the short term strategy to gain recognition for workplace caused disease. For the long term, the Ontario Federation of Labour and affiliated unions will work for the establishment of a dedicated institution for research on occupational health & safety and the investigation of occupational disease.
- 20) launch an aggressive campaign, in cooperation with OFL affiliates, labour councils and the Ontario Network of Injured Workers Groups, to raise public awareness of the inequities faced by injured workers and to encourage government to move forward with workers' compensation reform.
- 21) the Ontario Federation of Labour and affiliated unions will work with supportive health & safety professionals, community activists and academics as well as our political partner, the Ontario New Democratic Party to bring to public attention the tragedy and injustices that occur in Ontario's workplaces.
- 22) the Ontario Federation of Labour reaffirm with local union leadership and labour staff that injured workers should be provided with representation within the workers' compensation system at no cost.
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# SUMMARY

1. The Ontario government has supported the employer argument that a just workers' compensation system or healthy and safe workplaces impede competitiveness. The gains that working people have made in occupational health & safety and workers' compensation over the last few decades are being systematically wiped out. The institutions that we have built up are under attack. The Ontario government repeats the *Big Lie* that prevention is their priority . . . while introducing measures which will only prevent occupational injuries and illnesses from being recognized by the compensation system. Ontario will become statistically the safest place in the world to work.
2. The changes being made by this government to legislation, regulatory processes, the compensation system and an already inadequate enforcement system will result in our work environments becoming increasingly dangerous and unhealthy. The Ontario government has marginalized any meaningful role that workers and their representatives have played in influencing the health & safety system and the regulatory and standard setting process. The legislated role of workers is also being marginalized at the workplace level.
3. In return for a workers' compensation system which endeavours to compensate them for lost wages and a diminished quality of life, workers have given up the right to sue their employer for injuries and diseases caused by their employment. The system should cater to the needs of workers and employers must bear the costs.
4. Income protection for workers who become injured or sick is a patchwork of government and private programs. All have different eligibility requirements. All pay different levels of benefits. Some workers have access to all of these programs and others only a couple. The disparity is great. In too many cases, employers are pushing workers to access sickness and accident plans or the EI system when they are hurt at work. This behaviour by employers can significantly increase the *experience rating* kick-back they receive from the Board.
5. The legislative requirement for workers to make their own application for workers' compensation benefits is intended to reduce claims, but not injuries.
6. "Labour's Program for an Effective Enforcement System", lays out what the affiliated unions have expressed as the major problems with Ontario's health & safety enforcement system as well as the Ministry of Labour's administrative policy, commonly known as the *Internal Responsibility System*. The OFL program calls for strict enforcement, advances the provision of more effective enforcement tools for inspectors and spells out labour's vision of an internal responsibility system. If workers are to make further gains in their health & safety at work, "Labour's Program for an Effective Enforcement System" will need to be a key component of the overall strategy.
7. Occupational health prevention requires a dedicated institution along the lines of the National Institute of Occupational Safety and Health (*NIOSH*) in the US or the Institut de recherche en santé et en sécurité du travail du Québec (*IRSST, Québec Occupational Health and Safety Research Institute*) in Québec. Such an institution should be dedicated to research and policy development on occupational disease and hazard analysis that

is responsive to the needs and issues arising in the work environment and would develop realistic solutions for prevention.

One of the key reasons that more has not been done in establishing the relationship between disease and the working environment has been a lack of documentation that includes the employment and exposure histories of each cancer patient.

One other key reason for the failure to establish the relationship between cancer and work is the lack of funding to conduct the investigations into the connection between disease and work.

8. The WCB is remarkably well funded, with more than 50 percent of all the money it will ever need for benefits until all the injured workers currently in the system die. It has some \$9 billion in the bank. The Board has never borrowed a dime in its history. It has never used one dollar of taxpayer money because premiums are paid by employers. It has lower overhead costs than the greedy insurance companies. Ontario's employers pay premiums so low that they rank in the lowest third of premiums paid by employers in North American jurisdictions.
9. More than 30 percent of Ontario's workers are denied workers' compensation coverage. The key sectors which have managed to lobby successive governments in order to be excluded from the system are the highly profitable banks, insurance companies and other service sector employers.
10. Current workers' compensation legislation ties entitlement to benefits to the release of medical information to the Board *and* the injured worker's employer. Entitlement to benefits is also tied to the injured worker's co-operation with medical procedures or

health care measures that the Board considers appropriate. The WCB can force you to take drugs or undergo surgery that your physician advises against. If you do not cooperate, you are cut off benefits.

11. More than 70 percent of injured workers whose disability has caused them to be off the job for one year or more remain unemployed, despite legislation which has obligated employers to re-employ them and accommodate their disability since 1990. The WCB has encouraged employers to concentrate on the manipulation of statistics . . . hiding claims, appealing claims, intimidating workers from filing claims . . . to maximize experience rating program kick-backs, rather than encouraging the implementation of health & safety and return-to-work infra structures necessary to properly accommodate workers with disabilities.
12. The Workers Health and Safety Centre (*WHSC*) and Occupational Health Clinics for Ontario Workers (*OHCOW*) are under attack and are in danger of losing all funding.
13. The OFL, its affiliates, labour councils, injured workers groups and political activists have organized regional Workplace Health Committees (*WHC*). The *WHC*'s have been struggling hard to lobby the government as well as educate the public and their members regarding the attacks on workplace health, safety and compensation. Our regional Workplace Health Committees will need more resources and training to maintain the fightback on occupational health & safety and workers' compensation.
14. To ensure that the rights, protections and compensation for injury are preserved for our members, we need to resort to what has

worked in the past and negotiate them into our collective agreements.

Many of our members who have received health & safety training to carry out their technical responsibilities on joint health & safety committees lack the knowledge of how our gains have been made. They will need to be provided with the skills to organize and generate activism around health & safety and compensation issues; understand the politics of how our gains have been won; and receive education to develop the skills to fight for and maintain our gains.

15. The Ontario labour movement must adopt a Workers' Compensation Bill of Rights as a set of principles which will serve as our objective.
16. The Ontario Government is preparing to hand over the most lucrative components of the compensation system to the big insurance companies. Privatization means control by private interests. The two main stakeholders, workers and employers, would have no say in the administration of a privatized system. Rather, insurance companies, accountable only to their stakeholders, would be in control.

## ACTION PROGRAM

*The Ontario Federation of Labour, in cooperation with its affiliates and social partners, will work to advance the health & safety principles contained in this policy paper and will promote the Workers' Compensation Bill of Rights:*

- 1) lobby the provincial government and the Board for the implementation of the health & safety and workers' compensation principles contained in this policy paper.
- 2) disseminate the Workers' Compensation Bill of Rights to all affiliates and the injured workers' community, calling on them to vigorously promote its contents.
- 3) initiate a Task Force among the members of affiliated unions to measure what our members believe are the biggest problems in dealing with the workers' compensation system and prioritize the OFL's lobbying and campaign efforts accordingly.
- 4) the Ontario Federation of Labour will set up a central fund for the financing of the Workers Health & Safety Centre (WHSC) and the Occupational Health Clinics for Ontario Workers (OHCOW). Affiliated unions will, as part of the bargaining strategy with their employers, demand funding from the employers that will go into the central fund. These monies will be used to maintain the operation of the WHSC and OHCOW.
- 5) urge local unions and labour staff to negotiate re-employment clauses and modified work arrangements which include a role for joint re-employment committees. Should re-employment be denied for any reason, resulting in a reduction or termination of benefits, the employer must be responsible to make up the loss.



- 6) urge local unions and labour staff to negotiate collective agreement clauses which will provide paid time for local union nominees to help co-workers fill out their application for workers' compensation benefits in order that all workplace injuries are recorded with the Board. Paid time should also be negotiated for local union nominees to represent members who are appealing a Board decision. Paid access to the necessary training for local union activists through the OFL WCB Training Project must also be negotiated.
- 7) urge local unions and labour staff to place on the bargaining table language that will protect our gains in health, safety and injury compensation. This will include provisions for training by the Workers Health & Safety Centre (*WHSC*) and clinic services by the Occupational Health Clinics for Ontario Workers (*OHCOW*).
- 8) urge local unions and labour staff to negotiate collective agreement language which recognizes as compensable any injury which a worker's doctor says is work related . . . and if the Board does not provide wage loss benefits while the worker is off work, the employer shall.
- 9) working with affiliated unions, the Ontario Federation of Labour will develop a system of workplace injury and illness monitoring. This will include those injuries and illnesses that result in lost work; not just lost time, in order to record those workers who require modified work for the duration of the injury or illness. The affiliates will work to have the system established in the workplace so that the true level of injuries and illnesses can be made public.
- 10) hold regional workshops in 1998 to update local union activists on new Board policies and to implement fightback programs in their workplaces and the community. All workplace injuries must be reported to the Board. Employers with bad records must be publicized in the community. Working people must do whatever it takes to set the workers' compensation and health & safety agenda for the next provincial election.
- 11) investigate the creation of a structure within the labour movement which will assist workers to fill out their application for workers' compensation benefits, receive information on ergonomics and return-to-work and provide a list of resources, referrals, collective agreement language and general information regarding workers' compensation and health & safety issues.
- 12) working with affiliated unions, the Ontario Federation of Labour will develop a labour vision for a new health & safety system. We will design institutions, funded by government and the employers, that will work for the protection of all workers. Such a system will include an equal role with employers in a new regulatory development process.
- 13) OFL affiliated unions will provide support for the regional Workplace Health Committees (*WHC*) as part of the overall strategy on the fightback for workplace health, safety and injury compensation.
- 14) OFL affiliated unions will collect real life stories that can be used to demonstrate to the public the impact on families of occupational injuries, disease and fatalities.
- 15) affiliated unions will provide financial support for the development of a political education program for health & safety activists. The goal of this program will be to regenerate health & safety activism in the workplace and the community.

- 16) the Ontario Federation of Labour and affiliated unions will lobby the provincial government to revise legislation, enforcement and the Internal Responsibility System in Ontario to reflect what labour has laid out in the "Program for an Effective Enforcement System."
- 17) continue to develop a strong working relationship with the Ontario Network of Injured Workers Groups, especially at the community level.
- 18) the Ontario Federation of Labour and affiliated unions will work to see the Computerized Recording of Occupations Made Easy (*CROME*) system put in place at Cancer Centres across the province.
- 19) the Ontario Federation of Labour and affiliated unions will continue the fight to preserve the Occupational Disease Panel (*ODP*) as part of the short term strategy to gain recognition for workplace caused disease. For the long term, the Ontario Federation of Labour and affiliated unions will work for the establishment of a dedicated institution for research on occupational health & safety and the investigation of occupational disease.
- 20) launch an aggressive campaign, in cooperation with OFL affiliates, labour councils and the Ontario Network of Injured Workers Groups, to raise public awareness of the inequities faced by injured workers and to encourage government to move forward with workers' compensation reform.
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# NOTES

