

**UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL
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SUBMISSION ON THE 2017 WORKPLACE SAFETY AND
HEALTH ACT REVIEW
JULY 2017**

On behalf of UFCW Local 832 and its membership we are pleased to provide our submission on the five year review of The Workplace Safety and Health Act (WSHA)

UFCW Local 832 represents roughly 19000 members from both the private and public sectors. We are Manitoba's largest private sector Union representing workers from virtually every working sector in Manitoba. We have a very diverse membership that represents many new Canadians, temporary foreign workers, youth and skilled trades.

Since the beginning of our existence UFCW has advocated for health and safety laws and better working conditions for workers across North America. Our mandate is to make sure not just UFCW members return home to their loved one each and every day but all workers including non-unionized workers get the same opportunity.

Many jobs have inherent risks associated with them but controls are put into place to make sure that workers are safe. A job that exposes a worker to a known safety or health risk is a job that should not exist until it is safe to work. No job comes with a description that includes injury and this should never be accepted by any worker, employer, and Union or Government agency. To hear someone say that there is a level of un-safe work that a worker can be exposed to is wrong, unethical and flat out illegal. To have Safety and Health referred to by some as "Red Flag Barriers" is incredibly offensive and inconsiderate to all those workers whose blood resulted in our laws today.

Manitoba should not be a place that needs to create laws because someone got seriously injured or killed. Manitoba should be a place where laws are created because no more workers deserve to be guinea pigs for political posturing. We spend all our time talking about prevention but then we wait for someone to get hurt before we force a change. Once that happens we enforce laws only to the point where we wait to see if injuries continue to happen rather than making sure they never do.

Isn't the Manitoba we want a Manitoba where laws that protect workers are put ahead of work and not viewed as "barriers to promote economic growth"? It's easy for some to say that but have they spoken to the families of fallen workers?

UFCW offers significant training opportunities through various methods across the entire country. Local 832 has two large training centers located in Winnipeg and Brandon that see 1000's of workers every year. Not only do we train in Health and Safety but we provide training for new comers to help better understand Canadian workplaces to a much greater degree. We have a High School program to help our members achieve their grade 12 education and better navigate themselves through their working careers. We provide much diversified training to our members to empower them to raise their voices and not accept workplace injury as part of the job. We empower our members to raise their voice and speak up for better working conditions. Most importantly we empower our members with the ability to better themselves in life, move into different occupations and advocate for the many workplace factors that have such a drastic impact on working people.

Considering we saw our first Health and Safety Legislation in Manitoba in 1976, we have made some ground breaking changes that cannot go unnoticed and we should not be going backwards on:

- Workers' rights written clearly into law;
- Clear guidelines to a health and safety program ;
- Paid educational training for the vital function of health and safety representatives and committee members ;
- More focus on enforcement and employer discriminatory action against workers;
- Increases in fines for employers abusing the laws;
- A Chief Prevention Officer;
- More proactive approach to prevention with the newly formatted SAFE Work MB;
- The new SAFE Work Certified certification;
- Stricter regulations on Harassment, Violence and Bullying;
- The most prevention based educational work ready program in Canada, SAFE Workers of Tomorrow;
- Empowerment of Health and Safety Committees to have a stronger hand in responses and commitments from the Employer on Health and Safety concerns;
- Increases to the number of employees at SAFE Work MB.

Despite all the positives Manitoba has seen in Health and Safety legislation over the years, we are still lacking in a number of areas. Workers are still having to get hurt before something changes. In Manitoba a young female had to die on the side of a highway after being struck by a speeding vehicle before laws were changed to better protect construction flag persons. Even after that tragic incident it still took a number of years to better protect these workers.

We still have apprenticeship ratios that are too high leaving extremely vulnerable untrained workers exposed to serious injury causing hazards without proper supervision. Employers are getting around having a health and safety committee because the term

“regularly employed” is not clearly defined. The Westary Act has never once been enforced in Manitoba despite having one of the highest per capita worker fatality rates in all of Canada. Workers are dying in Manitoba at an alarming rate and 100% of those fatalities are preventable.

In 2016 nearly 29000 workers were injured at work. That’s a WCB statistic. That doesn’t take into account workers not covered by WCB or workers whose claims were not accepted by the WCB. The reality is that the number of 29000 injured workers actually should be far greater. The ironic part of this awful statistic is that in order to identify a hazard you need to know about them. If Manitoba was truly becoming a safer place those numbers of workers injured should increase drastically as more incidents would be reported resulting in more change to create safer workplaces.

UFCW Local 832 has put together the following recommendations for the WSHA review:

1. Advisory Council

Under the current WSHA the Advisory Council (AC) is established to advise the Minister on workplace safety and health matters. Currently with the exception of this review and other small projects the AC meets very infrequently and is very much underutilized.

UFCW recommends the following:

- The AC meets more frequently and at a minimum of four times per calendar year;
- The roles and responsibilities of the AC be reviewed by the AC every five years in line with the WSHA review;
- The AC be the hearing body of employer/worker appeals to Workplace Safety and Health;
- The AC be responsible for regularly reviewing Workplace Safety and Health operational responsibilities and policies;
- The AC be included in hearing of Variances;
- The AC be expanded by one position to include an expert in young and vulnerable workers; and
- The AC will be responsible to set the mandate and review process for the five year review of the WSHA.

2. Asbestos Registry

Asbestos continues to be a serious problem accounting for the majority of occupational fatalities as reported by Compensation Boards across the country.

The Federal Government has a registry in which all federally-owned buildings containing asbestos are registered. Likewise, Saskatchewan began this movement by becoming the first province to create a registry for provincially owned buildings.

UFCW recommends the following:

- Create a registry for all provincially owned buildings containing asbestos;
 - Create a registry for individuals whom suffer from asbestos-related disease so as to insure more accurate tracking, reporting and identify areas of health research; and
 - Manitoba should be a leader in this area and push for stronger regulatory standards around all aspects of asbestos related work.
3. Appropriate training for Health and Safety Committee Members/Representatives

In 2014 changes came to section 40 of the WSHA that would see more onus on employers to insure committee members are trained properly to serve as HS committee members. In addition to that, changes were made to make it clear that training for committee members does not result in a loss of pay or benefits. In many cases changes advancing employees ability to better understand their roles as committee members are positive, however this one seemed to have been lost. The correlation between section 44(1.1) and section 40(11-13) is often one that employers are not connecting and on occasion getting misleading information from officers and other HS practitioners. All too often employers cap training at 2 days per year maximum. This leaves committee members without vital training to properly execute their duties as defined under the act. This also leaves employees and their representatives having to advocate for training and by the time the right decision has been made the training has passed and the committee is no better off.

In light of this problematic area of the WSHA UFCW recommends the following:

- Section 40(1) be amended to include a reference to section 40(13); and
 - Section 40(1.1) (a) include the word “minimum” before 16 and (b) include the words “a minimum of” before the word two.
4. Union access to Health and Safety Committee meeting minutes and all other materials provided to committees and representative as outlined under the act.

All too often employers fail to share important information with committee members. This is very problematic when employers have complete control over a committee, which is quite common in all sectors. Employers whom dictate the

function of the committee and restrict access to information leave workers in very vulnerable positions. Positions that workers often don't even know exist as a result of this manipulation. Often workers whom work in unionized work environments are there because representation is needed to insure basic worker rights are followed. Unions and Associations representing workers are often included in many health and safety related concerns and grievances, however they do not have access to information unless it is provided by the co-chair. When employers fail to provide that information to committee members and they are not aware of it, there is virtually no way of knowing what has happened. Unions and Associations are included in virtually every aspect of the workplaces they represent so there is no reason why WSHA does not include these groups as interested parties. This is especially important when it is the Union or Association that registered the concern or complaint on behalf of the workers. Under regulation 3 there are references to Unions participating in appointments of committee members. Why Unions are considered interested parties in appointment of committee members but not in sharing of important information to committees is an error in our WSHA and regulations. Navigating the WSHA and regulations is not an easy task which is why it is even more important that if Unions and Associations are acknowledged as having the ability to dictate a committee they should also have the ability to assist the committee. This is a very similar concept to employers whom hire safety practitioners to oversee their programs. As representatives of the employer they are entitled to all the information however the representatives of the workers are not?

In terms of Unions and Associations being included in minute sharing, this allows these parties to educate members on process for dealing with concerns and understanding of minutes. This allows both the Union and Committee members/ reps to take a more proactive approach and get out in front of issues before they become problems. Often when minutes are distributed to the workers representing bodies it also helps establish relationships with the employer and build stronger health and safety environments. Committees often change and often the knowledge base of the committee needs to be built up again. It is unreasonable to expect a brand new committee to understand every aspect of their duties. That comes with time and education which is why coaching and training is so important. Including workers representatives and providing them with the minutes also helps insure that minutes are being properly documented, concerns are being dealt with properly and the Act and regulations are being followed by all parties. Most importantly this alleviates some of the aggression employers try to impose on committees/ reps to gain full control.

UFCW recommends the following:

- Unions and Associations be considered interested parties under section 36.3(1) and 3.7(2) under part 3 of the regulations;
- Policy be changed to become more strict with administrative penalties for employers failing to provide required information under the act and regulations;
- WSH administer a zero tolerance policy for employers withholding information from committees/ reps and interested parties; and
- Unions and associations be included as interested parties in all required communication aspects to workers or committees/ reps as outlined under the act or regulations;

5. Psychological Health and Safety/Mental Health/CSA standard

Mental health is quickly becoming the single most problematic area of worker health and safety. Although there is much discussion around this topic there is very little action. This is an extremely under resourced area that does not seem to be taken seriously by many employers. The lack of enforcement and legal frame work around mental health is extremely problematic in that employers have no reason to really take this seriously until they are forced to.

Although section 2(2) (a) of the act refers to social well-being there are virtually no other references to mental health in any other area of the act or regulations. In addition to that there is zero enforcement on psychological factors in the workplace that lead to mental illness.

There are many reputable studies that are very much factual based that outline the workplace factors that lead to mental illness. Without proper language in our act and regulations and proper enforcement there is no incentive for employers to take this significant hazard seriously.

The CSA standard on psychological health and safety developed in 2013 is arguably the most detailed and fact based information we have. This standard provides clear guidelines for developments, implementation and control of psychological health and safety matters in the workplace. The standards identifies a number of mental illness causing factors that are in complete control of the employer.

We cannot as a province continues to turn our backs on what is quickly becoming a workplace epidemic. Both our enforcement and compensation bodies need to step up and make laws to protect workers from mental illness caused by workplace factors.

UFCW recommends the following:

- Clear language in the Act regarding identification, control, responsibility and enforcement of Psychological health and safety and mental health;
- A new regulation be created specifically regarding psychological health and safety in conjunction with but not limited to Unions, employers, WSH, professionals and other interested parties or organizations whom directly deal with mental health;
- WSH must strictly enforce the “social well-being” of workers forcing employers to control workplace factors that are known to be psychological hazards; and
- The Act and the new Regulation reference the CSA standards as the foundation of any workplaces program or any enforcement from WSH.

6. Roles of the Chief Prevention Officer (CPO)

The CPO position is one that is mandated under the WSHA. This position was developed to have one individual become the fore front of Workplace Safety and Health in Manitoba. This is a vital position under the WSHA however has not been acted in effectively thus leaving huge gaps in a number of different areas. This position should be in a non-bias standalone position that is mandated to operate separately from all prevention and enforcement bodies. Input from regulatory bodies in Manitoba should be included only on an as needed basis as directed by the CPO. The CPO should be regularly reviewing all of Manitoba prevention initiatives and providing non-bias, fair and objective assessments of all Workplace HS aspects. Information and reports made public is also very important and should be done by the CPO.

UFCW Recommends

- The CPO be appointed by joint recommendation by the Advisory Council;
- The CPO become a full time position;
- The roles and responsibilities of the CPO be reviewed every five years in conjunction to the WSHA review by the AC;
- Fixed dates for reports by the CPO be establish in effort to insure proper consultation periods;
- The CPO have the power to independently investigate threats to Workplace Health and Safety and independently investigate specific violations of the WSHA and regulations. In addition to the above the CPO be required to provide public reports on these investigations; and
- The CPO be seen as a non bias neutral position and stronger efforts be made to establish relationships with all stakeholders.

7. Higher max administrative penalty

Although there have been some significant improvements to the amounts of administrative penalties, there is still work to be done. Administrative penalties are set out to deter employers from violating the WSHA and putting worker health and safety at the forefront of their operations. Unfortunately that is not always the case.

Other Canadian jurisdictions calculate penalties by multiplying a percentage of pay roll with basic minimum amounts to the maximum of half the statutory maximum. In addition to that approach other jurisdictions have maximums much higher with the penalty increasing every day the contravention continues.

UFCW recommends the following:

- Administrative penalties be raised to a higher maximum based on payroll rather than a flat sum.

By going to a system based off payroll with minimums, it penalizes small employers fairly for interventions but also causes enough of a deterrence for large employers creating a system where it is no longer profitable just to pay the penalty rather than address the contravention.

8. Automatic Administrative Penalties for failure to comply

When systematic administrative tools such as improvement orders, stop work warnings and stop work orders are issued it becomes known that there is an unsafe condition in a workplace. This is an employer controlled condition that leaves workers in an un-wanted vulnerable position. When these administrative tools are used priority one should become the fix rather than the battle which is often the avenue taken. The longer a known hazards is not properly dealt with in a workplace the more likely it is for an incident to happen.

Generally most employers learn from compliance tools administered by WSH but those are not the ones that are the issue. It's the employers that drag their feet and fight absolutely everything rather than maintain their duties under the WSHA which are to provide a safe workplace. There is absolutely no reason why immediate administrative penalties should not be the sole remedy for failure to comply. Often these difficult employers that do not comply or fight these orders are the ones where money is the bottom line and the only way to change them is with financial burdens. There is no reason why an employer should not be hit with an administrative penalty for failing to address a known workplace hazard.

UFCW recommends the following

- Manitoba automatically applies administrative penalties for failure to comply with any administrative tool.

9. Evaluation of Health and Safety Committees

A health and safety committee is an extremely important aspect of any successful health and safety program. It helps create and define positive health and safety environments. The committee has one mandate and that is to establish an environment where employers and employees work collaboratively together to find collective solutions to health and safety concerns in the workplace. Often a workplace is only as strong as their committee. Sometimes committees whom are not functioning properly have no idea. There are a whole realm of reasons why committees don't function properly but none of those can be addressed until they are identified. Committees should be doing regular assessments of their function but currently under the law are not required to do so. Not only would regular assessment assist with building relationships but it also identifies areas of improvement and areas to champion.

UFCW recommends the follow:

- The WSHA be amended so as that committees conduct an annual written evaluation to be shared with WSH, the entire committee and the Union.

10. Hours of work

Many industries regulate hours of work as it is well known and documented that long shifts create fatigue on the human body and lead to poor judgement and slower response times. Pilots and truck drivers would be examples of where industry and government has had to regulate hours of work as a result of many incidents and safety concerns. Likewise in many other occupations such as paramedics and packing houses employees are working long hours without proper rest to regenerate mentally and physically.

In many industries overtime has become exceptionally problematic as employers are using this as a way out from properly staffing their operations. Employees are sometimes forced to work long shifts without proper rest and on the flip side some employees will sign up for every overtime shift as there is a financial incentive to do so. This leaves WSH, employers and employees in a very difficult positions. If a person is too tired to work overtime can the employer or a WSH office force them to do so? Or likewise if an employee wants to work over time but the employee deems it to be unsafe can the employee or a WSH officer say the opposite? That is the situation we are in and it is leaving not just the worker performing the task exposed to a preventable hazards but also all workers around

them. It is very difficult to put a time on something so subjective but it is widely known fatigue causes safety problem.

At this point we are not sure what the limit should be based on industry but there is an obvious problem that many experts can provide more direct information on.

UFCW recommends the follow:

- A committee be establish of Unions, employers, workers, medical and sleep experts and any other party relevant to establishing a standard hours of work to be outlined in the WSHA.

11. Engineered Labour Standards

Engineered Labour Standards (ELS) are becoming more common in many different sectors, from health care to meat processing. Such standards are driven by employer efforts to increase production while holding the line on unit Labour costs. This is starting to become extremely problematic as time standards given to workers are not realistic. Workers are being forced to work within these dangerous systems where they are not being given enough time to safely and properly perform tasks in the time allotted.

For example, in warehousing, workers are required to bend over and lift a 50 pound bag of onions from the ground, and then transfer it over to a pallet in just three seconds (sometime two seconds). This time standard is fundamentally inconsistent with safe lifting techniques, which workers are often taught, but then prevented by the ELS from using. Workers who chose to lift safely cannot make time standard and then face discipline, including termination.

Part 8 of the Regulations speaks to Musculoskeletal Injuries. This regulation is to provide for risk assessments when MSI risk factors are present. In the case of warehousing the risk of a MSI is very high as workers are making thousands of movements in one shift that require handling of product of much different size and weight. Safe lifting techniques vs unsafe techniques and their impact on the human body are well documented and studied. SAFE Work Manitoba has a number of resources outlining the importance of safe lifting techniques and also a number of resources outlining the importance of controlling MSI's.

Employers with these systems are well aware of what they are forcing workers to do. However they chose to increase time standards and injury to workers in order to increase profit. Employers are in complete control of these ELS systems. This is not a question of can the MSI be controlled, it is a question of why the employer arbitrarily choses to enforce a system where workers cannot exercise safe lifting

techniques. These employers know they are hurting workers and this can be easily fixed by increasing time to properly, safely perform tasks however they chose not to. Very little is being done to enforce the regulation and stop employers from knowingly hurting workers.

UFCW recommends the following:

- A new regulation be created regarding ELS systems and the focus of the system being on time to perform tasks safely rather than increasing profit. This regulation would be developed by a committee with representation from all interested parties including but not limited to unions, ergonomists, engineers, employers, WSH and WCB;
- Regulation 8 be more strictly enforced for employers whom have complete control over the prevention of MSI's yet chose to develop systems where they knowingly put workers at risk;
- A committee be established to review ELS's systems prior to implementation and also follow up after implementation on a regular basis;
- Employers with ELS systems be required to provide risk assessments proving that time to safely perform tasks has been given;
- All discipline issued to a worker in a ELS system, that does not allow proper time to safely perform tasks, be removed from the workers file and treated as discriminatory action; and
- Joint committees be involved in every aspect of an ELS system. This includes, development, implementation, interaction with WSH or a review committee and any other interaction with regards to the ELS system.

12. Occupational Exposure Limits

Again it has come to light that Occupation Exposure Limits (OEL) are the topic of discussion. Currently when exposure limits are changed by the American Conference of Government Industrial Hygienists (ACGIH) Manitoba immediately adopts the changes and they become law the day of.

What is currently being discussed again is changing those OELs to allow a grace period between the change from ACGIH and the time it becomes law in Manitoba. There are a number of reasons why this has been bought up numerous times, none of which take into account worker safety. In addition to that none of these reasons are supported by legitimate documentation or argument. In fact last time this was brought up that position was supported and there was no reason as to why automatic adoption needed to change.

Bottom line is when an OEL changes it is because of the fact that it causes damage to the health of a worker. When this is known there is no reason why a

worker should then be exposed for a longer period of time. If employers are allowed to knowingly expose workers to health hazards what kind of prevention is that? If WSH does not keep workers safe from known hazards what is the point of enforcement?

UFCW recommends the following:

- Manitoba maintain the practice of automatic adoption of OEL's and this be clearly outlined in the WSHA
- The conversation of non-automatic adoption of OEL's never be entertained by the minister or WSH again only because employers want it easier for business and less safe for workers.

13. SAFE Work Certified

The Manitoba Safe Work Certified program is new to Manitoba but other jurisdictions have had similar programs to this in place for some time. The program offers incentive rebates from WCB so long as employers maintain proper adequate Safety Programs and foster positive safety environments in every aspect of the business.

This program creates a clear relationship between Safety and Compensation. Theoretically this program should help combat some the issues around employer abuse of health and safety laws and also help combat employer claim suppression.

Although UFCW supports this program, we are optimistic in that the program is implemented and utilized properly and employers are not taking advantage simply for WCB rebates. As this program is in the early stages it requires monitoring from all levels. Employers should not be rewarded for simply complying with the law, they should be reward for going up and above the law and having best practices not standard practices. The program is designed to always bring workers voice to the forefront which should never be deviated from.

UFCW recommends the following:

- WSH responsibilities around the Manitoba Safety Work Certification program be clearly outlined in the WSHA;
- Employers whom fail the certification become a target for investigation. Generally poor practice is a good indicator of many larger background health and safety concerns;
- WSH, WCB and SAFE Worker create more public information and training seminars identifying the relationships between the parties; and

- WSH, WCB, Unions, business, other safety associations and any other interested parties continue to monitor the SAFE Work Certified program.

14. Claim suppression/ Return to Work

Claim Suppression is a widely known problem in Manitoba and a clear indicator of employer abuse towards workers. Not only are workers stopped from filing a WCB claim, but no incident is ever reported and workers continue exposure to hazard that cause injury and illness.

This is a two sided issue. WCB should be rigorously fighting back against employers for interfering with WCB claims and WSH should be using these cases as leading indicators of other HS issues in a workplace and actively inspecting these workplaces.

Much like WSH uses WCB injury rates to target problematic employers WSH should also be targeting employers whom have complaints filed against them for what is ultimately a health and safety issue.

Claim Suppression is often hidden in very complicated, employer dictated, aggressive return to work (RTW) programs. RTW can be good in many cases but when done in effort to simply combat WCB premium increases there is a much larger issue. Programs done in this fashion continue to leave workers exposed to injury and illness thus leading to grounds for a work refusal. Unfortunately WCB does a very poor job of monitoring this programs and workers are left in the situation were if they don't participate they are left without benefits.

Injuries that are not reported and injuries that are the result of un-safe conditions. RTW programs that aggressively return workers to unsafe conditions or violate restrictions are in direct violation of the WSHA.

In light of the above and the ongoing epidemic of claim suppression;

UFCW recommends the following:

- WSH more actively communicate with WCB and WCB Compliance regarding employers whom have committed claim suppression or are being investigated for claim suppression and target for inspections;
- WSH target employers for inspection whom have in question RTW programs;
- The WSHA be amended so as that employers guilty of claim suppression and aggressive RTW programs are publicly reported;
- WSH and WCB both actively step up enforcement campaigns against claim suppression;

- WSH, WCB and SAFE Work MB do a joint public education campaign on employers forcing workers to return to work under unsafe conditions; and
- If workers refuse the work they are cut off WCB benefits. What workers should do and don't know is be exercising their Right to refuse.

15. Regulation 8, Musculoskeletal Injuries

Regulation 8 on musculoskeletal injuries (MSI) is designed to proactively promote identification and control of MSI causing hazards. This is some of the most advanced language in the country that helps control the most common type of occupational injury.

Unfortunately is only as good as the paper it is written one if it is not enforced properly. This is not a regulation designed to identify risk and then wait to see if an injury happens which is how is currently being enforced. Medical literature around MSI's and workplace causing factors is abundantly clear and very accessible.

Many MSI's develop over a long period of time leaving employees in positions where late reporting and proof of relationship to work are in question rather than the hazard that cause the injury. Employers are responsible for identifying and controlling these hazards and often that is not happening. When it comes time to have WSH enforce this regulation they are completely hands off and do not hold the employer directly to what the regulation says. Part of proper enforcement of a regulation like this is speaking with the workers on changes implemented as a result of the hazard. Workers are at the forefront of the work and the ones being exposed. WSH is failing to speak with workers and simply accepting what the employer is giving them in order to comply.

In addition to the extremely poor enforcement of such a widely know workplace hazard, WSH does not have the proper trained staff to adequately take on employers whom refuse to properly protect workers.

UFCW recommends the following:

- WSH be staffed with properly trained ergonomists to properly enforce regulation 8;
- Regulation 8 be amended to include the workers in any development and implementation of MSI reducing assessment and programs; and
- The WSH be amended so officers are required to interview effected workers on solutions given by the employer as a result of any responses to WSH administrative tools such as improvement orders or stop work orders.

16. Workplace safety and health internal policy

WSH has a number of policies used to enforce the act and regulations. There are a number of internal policies that outline different areas of the act and regulations, the meaning of those areas and how to enforce those areas. On occasion information provided by WSH varies from how the Act and regulations read. These policies are vital to the correct application of the act and regulations. In addition these internal policies and procedures are not easily accessible to the public.

UFCW recommends the follow:

- All WSH internal policies and procedure be available to the public in an easy to access location.

17. Regulation 11, Violence in the Workplace

Violence in the workplace is increasing. Not only is it increasing but in today's society it is more often being accepted as part of a job in certain industries like security and health care.

Unfortunately employers are not overly upfront about the issues they are having. This is becoming a problem as employee and public education on violence in the workplace is seamlessly disappearing.

We have a very good regulation that should help prevent much of this. However at this current point the regulation is complied with simply because it has to be and not to properly deal with violence in the workplace. This regulation needs to be enforced with a zero tolerance policy.

Looking at the recent issues in transit and in the security sector, many, if not all of these incidents are 100% preventable. However no one is drawing a clear line and forcing change. This is WSH responsibility and understanding change doesn't happen overnight. Change also doesn't happen if no one steps up and starts enforcing it. Many changes require money which employers claim to be a hardship but there is no amount of money that is worth a human life. If the employer can't protect the worker then the job should not exist until they can.

UFCW recommends the following:

- WSH enforce Regulation 11 with a zero tolerance policy;
- WSH issue stop work orders with violence in the workplace until the hazard is controlled to the point where it cannot happen at all; and

- WSH and SAFE Work drastically step up public, employer and worker education and awareness of violence in the workplace and that the stigma of “it is part of the occupation” be removed

18. Stronger Prosecution

It is no hidden secret that in Manitoba prosecution of employers is very slow. To the point where employers whom hurt workers sometimes do not even end up in the court system. Employers whom hurt workers have broken the law. When you break a law it is a crime and like any other aspect of law if you break a law and hurt someone you must be penalized for doing so.

Manitoba is still yet to penalize an employer under the Westray provisions of the criminal code despite countless examples of employers whom have seriously hurt or killed workers. Our court system is very poorly equipped to handle Workplace Safety and Health Violations.

In 2011 steps were taken by WSH to fix the issue with prosecutions and enforcement of the Westray act by hiring a Director of Investigations, however that has done nothing for wait times to prosecute and resulted in zero charges under Westary

In light of the overly long prosecution times and lack of Westary enforcement;

UFCW recommends the following:

- More training and direction for crown prosecutors to enforce Westary;
- More training for Police officers to treat all seriously injured and killed workers as negligence and apply the Westary previsions of the criminal code;
- More efforts to work collaboratively amongst all regulators to better apply the Westary Act;
- More training for officers to treat every fatality and seriously injured workers as a crime scene;
- Appointing more prosecutors and judges for Workplace Safety and Health cases; and
- WSH stop fearing the unknown and not be reluctant to go after an employer for a violation simply because they have never done it before.

19. Behavior Based Safety Programs (BBS)

BBS programs reward employers for not having loss time injuries. They also reward employees for practicing unsafe techniques in order to meet a productivity

standard. Both examples create the worst possible cultures in workplaces that do nothing but promote blame on workers and take onus off employers.

These programs have been around for many years and there is yet to be one that functions properly. This is an active way for an employer to put a different spin on claim suppression and lack of safety enforcement. A BBS system is a great sign of an under reported work injury rate and poor safety program. If employers operate their business properly and safely you need no incentive to reduce loss time injuries as these will just not happen.

UFCW recommends the following:

- The WSHA be amended so as to ban any incentive based safety programs.

20. Investigations Well Ongoing Litigation From Worker Representatives

It has been a long standing practice for WSH not to get involved in complaints or begin investigations when a workers representing body is involved and has begun the process of litigation, a grievance for example.

Unions get involved when a worker feels there is a problem in the any aspect of work. The primary focus of a Union is to inforce the Collective Bargaining Agreement however when there are other areas of concern in a workplace Unions often step in as it is our right and responsibly to protect our members. .

That being said it is the purpose of WSH to enforce the WSHA not Unions. WSH has the ability to intervene and investigate immediately, WSH can also for the employer to change. Unions don't necessarily have that ability immediately and cannot force any change until litigation is concluded which could take years. In light of that the intervention or exposure to risk leaves every worker vulnerable where as WSH can stop that immediately.

If there is a health and safety related problem in a workplace that gets to the point where a grievance must be filed there should be no reason why WSH cannot do their part and enforce the WSHA. Blatantly saying no to involvement of worker concerns is not what an enforcement body should be allowing. Much like employers and workers, WSH also has responsibilities and one of the biggest ones is to enforce the WSHA and protect workers against unsafe conditions.

The one exception to this is that WSH will get involved when there is a complaint of discrimination. This is a good first step but why only get involved in one part of the WSHA and not the entire act? The mandate of WSH is clear and by

abandoning these situations for a period of time WSH is not following their fiduciary responsibilities.

UFCW recommends the following:

- WSH enforce every aspect of the WSHA regardless of Union involvement;
- The WSHA be amended so as to insure WSH is the primary enforcement body and that is not abandoned on a case by case basis;
- WSH police be amended or created so no worker is turned away with the expectation the Union will do what is the mandate of WSH; and
- Unions and WSH work collaboratively to ensure safety of workers.

21. Electronic Sharing Of Information

As technology advances so does the rest of the world. Communications from WSH are now more commonly coming in electronically.

Although we support electronic communication it sometimes poses some problems with employers posting information and providing information to committees in accordance with the WSHA.

There needs to be a mechanism to insure that all electronic communications will be provided to the appropriate parties and posted accordingly. Currently we do not have that and workers are be left out of the loop on important HS communication and decisions

UFCW recommends the following:

- The WSHA be amended to include electronic communication;
- WSH develop of mechanism to insure all communications are posted in accordance with the WSHA and Committee are included on all communications; and
- WSH take a zero tolerance approach for employers whom arbitrarily choose not to post or include committees.

22. Health and Safety Programs

Currently under our WSHA you are only required to have a health and safety program in a workplace is you have over 20 regularly employed employees.

Programs are an important tool that map out the fundamental aspects of a health and safety in direct relation to the specific workplace. Often these are used to form the foundation of a safety culture.

There is no requirement for workplaces under 20 employees to have a program however the same act and regulations apply. Understanding smaller workplaces do not necessarily have the resources or time to develop a full HS program it is important that emphasis is put on HS similar to +20 employer workplaces. Similar to a HS representative as opposed to a full out HS committee. The general functions of a committee are done by the appointed representative just in a less formal way than a full out meeting.

There are no doubt many areas of a health and safety program that can be accomplished by a health and safety representative and the employer without requiring a tremendous amount of time or resources. There are other Canadian jurisdictions that require a less formal health and safety program for employers below 20 employees.

UFCW recommends the following:

- The WSHA be amended to require a less formal HS program for employers with 5- 20 employees. The requirements for this program would be developed by the Ministers Advisory Council.

23. Heavy Narcotics (Opioids) And Medicinal Marijuana

It is no hidden secret that many workers have conditions that require heavy narcotics (opioids) or medicinal marijuana. It is also no secret that many of these medications do a number of things to the human body that include, impeded judgment, slower reaction times, hallucinations, fatigue and much more.

The side effects of medication result in potentially unsafe conditions for the worker or other workers in that workplaces. They are uncontrolled and un-wanted symptoms but they are the result of recovery or comfort for a condition that cannot be healed.

For the most part these situations are handled well however this becomes very problematic when you have employers with extremely aggressive RTW programs. They become even worse when it is RTW for a compensable injury. These programs are designed to bring workers back to work in any condition at any cost to the worker simply to reduce loss time and save employer WCB premiums. These employers are forcing workers to work whom for the most part should not even be attempting RTW due to the injury but also are heavily medicated.

Generally the practice is that if the worker RTW and chooses their wellbeing and the wellbeing of others over the RTW program they are cut off WCB. This is a

huge error by WCB to allow employer to manipulate the system this way but also WSH for not stepping in as putting workers in these positions is extremely unsafe.

Often RTW includes looking at the injury only and what can we make this worker do so WCB agrees and we don't have loss time. There is zero time or consideration put into any medications that should also result in the formation of that workers RTW program.

All that being said there are still workers whom work every day on heavy medications for reasons the employer is not entitled to know. This does put employers in a difficult position but if there were provisions in the WSHA around development of policy and procedure it would create a much safe workplace.

UFCW recommends the following:

- The WSHA be amended to include the requirement of employers to develop policy around opioids and medicinal marijuana;
- WSH begin to rigorously enforce abuse or RTW that require a work to work well under the influence; and
- WSH, WCB and SAFE Work MB do a joint public education campaign on Opioids and Medical Marijuana and the employee's right to refuse if the employer forces them to work under the influence.